

# **Exhibit E**

**In The Matter Of:**  
*DAVID AGOADO, et al. v.*  
*MIDLAND FUNDING, LLC, et al.*

---

*MITCHELL SELIP*  
*August 05, 2015*

---

*Cindy Afanador*  
COURT REPORTING, INC.  
CONFERENCE SUITES  
MANHATTAN – BRONX – BROOKLYN – QUEENS  
GARDEN CITY – MELVILLE – HAUPPAUGE – RIVERHEAD  
[HTTP://WWW.CINDYCOURTREPORTING.COM](http://www.cindycourtreporting.com)  
**1-877-337-6968**

*Original File FINAL SELIP.txt*

*Min-U-Script®*

Page 1

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK  
3 -----x  
4 DAVID AGOADO, LEEANN  
5 McNALLY, CRAIG MOORE,  
6 CHRIS PIERRE, THOMAS  
7 SHARKEY, MADGE SHIPMAN,  
8 and DOREEN VAZQUEZ,  
9 individually and on  
10 behalf of all other  
11 similarly situated,  
12  
13 Plaintiffs,  
14  
15 vs. Index No.:  
16 14-cv-00018-LDW-ARL  
17  
18 MIDLAND FUNDING, LLC,  
19 MIDLAND FUNDING, LLC  
20 DBA IN NEW YORK AS MIDLAND  
21 FUNDING OF DELAWARE, LLC,  
22 and MIDLAND CREDIT  
23 MANAGEMENT, INC., et al.,  
24  
25 Defendants.  
-----x  
AUGUST 5, 2015  
9:19 a.m.  
Deposition of MITCHELL SELIP, ESQUIRE,  
held at the offices of WILSON, ELSER,  
MOSKOWITZ, EDELMAN & DICKER, LLP, 150 East 42nd  
Street, New York, New York 10017, before  
Suzanne J. Stotz, a Certified Court Reporter,  
and a Notary Public of the State of New York.

Page 2

1 A P P E A R A N C E S:  
2  
3 Attorneys for the Plaintiffs:  
4 FRANK LLP  
5 275 Madison Avenue, Suite 801  
6 New York, New York 10016  
7 (212) 682-1818  
8 gfrank@frankandbianco.com  
9 jsaltzman@frankandbianco.com  
10 BY: GREGORY A. FRANK, ESQ., and  
11 JAY SALTZMAN, ESQ.  
12  
13 and  
14 BIANCO, BYRNES & FINKEL, LLP  
15 5036 Jericho Turnpike, Suite 2018  
16 Commack, New York 11725  
17 (631) 462-4911  
18 afinkel@sclf.com  
19 BY: ALAN FINKEL, ESQ. (Telephonic)  
20  
21 Attorneys for the Defendant, Midland Funding,  
22 LLC and Midland Credit Management, Inc.:  
23 MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN  
24 2000 Market Street  
25 Philadelphia, Pennsylvania 19103  
(215) 575-2765  
amschwartz@mdwcg.com  
BY: ANDREW M. SCHWARTZ, ESQ.  
Attorneys for the Defendant, Selip & Stylianou,  
and the Witness:  
WILSON, ELSER, MOSKOWITZ, EDELMAN &  
DICKER, LLP,  
150 East 42nd Street  
New York, New York 10017  
(212) 915-5638  
joseph.francoeur@wilsonelser.com  
BY: JOSEPH L. FRANCOEUR, ESQ., and  
JULIA FERRO, ESQ.

Page 3

1 A P P E A R A N C E S: (Continued)  
2  
3 Attorneys for the Defendant, Rubin & Rothman,  
4 LLC:  
5 ROBERT L. ARLEO, ESQUIRE  
6 380 Lexington Avenue, 17th Floor  
7 New York, New York 10168  
8 (212) 551-1115  
9 robertarleo@gmail.com  
10 BY: ROBERT L. ARLEO, ESQ. (Telephonic)  
11  
12 Attorneys for the Defendant, Forster & Garbus,  
13 LLP:  
14 DAVIDSON FINK, LLP  
15 28 East Main Street, Suite 1700  
16 Rochester, New York 14614  
17 (585) 546-6448  
18 gfjermedal@davidsonfink.com  
19 BY: GLENN M. FJERMEDAL, ESQ.  
20  
21 In-house Attorneys for Pressler & Pressler,  
22 LLP:  
23 PRESSLER & PRESSLER, LLP  
24 7 Entin Road  
25 Parsippany, New Jersey 07054  
(973) 753-5100 x5134  
mwilliamson@pressler-pressler.com  
BY: MITCHELL L. WILLIAMSON, ESQ.

Page 4

1 I N D E X  
2  
3 EXAMINATION  
4  
5 Page No.  
6 MITCHELL SELIP  
7 BY MR. SALTZMAN 9  
8  
9 E X H I B I T S  
10  
11 Exhibit Description Page No.  
12 Name  
13 1 Plaintiffs' Amended Rule 30 28  
14 (b) (6) Deposition Notice to  
15 Cohen & Slamowitz, dated  
16 April 10, 2015  
17 2 Plaintiffs' Second Amended 28  
18 Rule 30 (b) (6) Deposition  
19 Notice to Cohen & Slamowitz,  
20 dated April 10, 2015  
21 3 Collection Agreement 36  
22 4 Screen shots 137  
23  
24 (Exhibits attached to transcript.)  
25

Page 5

1 I N D E X (Continued)

2

3 R E Q U E S T S

4

5 Requests 6 Name	Description	Page No.
7 1	Organizational Chart for Cohen & Slamowitz	27
8 2	Manual of Midland Funding, LLC's expectations and codes	41
9 3	Interface Table	48
10 4	Cohen & Slamowitz, LLP, internal codes corresponding with Midland Funding, LLC's codes	49
11 5	Amendments to the Midland Funding, LLC, manual requested in Request No. 2	71
12 6	Drafts of amendments to the manual, drafts to the agreement, and any e-mail in connection with either	72
13 7	Signed agreement documents and communications between Cohen & Slamowitz and Midland Funding, LLC in connection with the manual and/or agreements	73
14 8	Notification and production of other agreements	73
15 9	Production of e-mail communications	113
16 10	E-mails from Midland Funding, LLC indicating changes to procedures	188

25

Page 6

1 S T I P U L A T I O N S

2

3 IT IS STIPULATED AND AGREED by and

4 between the attorneys for the respective

5 parties herein, and in compliance with Rule

6 221 of the Uniform Rules for the Trial Courts.

7 THAT the parties recognize the provision

8 of Rule 3115 subdivisions (b), (c) and/or (d).

9 All objections made at a deposition shall be

10 noted by the officer before whom the

11 deposition is taken, and the answer shall be

12 given and the deposition shall proceed subject

13 to the objections and to the right of a person

14 to apply for appropriate relief pursuant to

15 Article 31 of the CPLR.

16 THAT every objection raised during a

17 deposition shall be stated succinctly and

18 framed so as not to suggest an answer to the

19 deponent and, at the request of the

20 questioning attorney, shall include a clear

21 statement as to any defect in form or other

22 basis of error or irregularity. Except to the

23 extent permitted by CPLR Rule 3115 or by this

24 rule, during the course of the examination

25 persons in attendance shall not make

Page 7

1 statements or comments that interfere with the

2 questions.

3 THAT a deponent shall answer all

4 questions at a deposition, except (1) to

5 preserve a privilege or right of

6 confidentiality, (ii) to enforce a limitation

7 set forth in an order of a court, or (iii)

8 when the question is plainly improper and

9 would, if answered, cause significant

10 prejudice to any person. An attorney shall

11 not direct a deponent not to answer except as

12 provided in CPLR Rule 3115 or this

13 subdivision. Any refusal to answer or

14 direction not to answer shall be accompanied

15 by a succinct and clear statement of the basis

16 therefore. If the deponent does not answer a

17 question, the examining party shall have the

18 right to complete the remainder of the

19 deposition.

20 THAT an attorney shall not interrupt the

21 deposition for the purpose of communicating

22 with the deponent unless all parties consent

23 or the communication is made for the purpose

24 of determining whether the question should not

25 be answered on the grounds set forth in

Page 8

1 Section 221.2 of these rules and, in such

2 event, the reason for the communication shall

3 be stated for the record succinctly and

4 clearly.

5 THAT failure to object to any question

6 or to move to strike any testimony at this

7 examination shall not be a bar or waiver to

8 make such objection or motion at the time of

9 the trial of this action, and is hereby

10 reserved and

11 THAT this examination may be signed and

12 sworn to by the witness examined herein before

13 any Notary Public, but failure to do so or to

14 return the original of the examination to the

15 attorney on whose behalf the examination is

16 taken shall not be deemed a waiver of the

17 rights provided by Rules 3116 and 3117 of the

18 CPLR, and shall be controlled thereby, and

19 THAT certification and filing of the

20 original of this examination are waived; and

21 THAT the questioning attorney shall

22 provide counsel for the witness examined

23 herein with a copy of this examination at no

24 charge.

25

Page 9

1 M. SELIP  
2 MITCHELL SELIP,  
3 c/o Selip & Stylianou, 199 Crossway Parks  
4 Drive, Woodbury, New York 11797, having first  
5 been duly sworn by a Notary Public, was  
6 examined and testified as follows:  
7  
8 EXAMINATION BY  
9 MR. SALTZMAN:  
10 Q. Good morning, Mr. Selip.  
11 A. Good morning.  
12 Q. My name is Jay Saltzman,  
13 representing the plaintiffs in this action.  
14 Would you state your name and  
15 address for the record, please.  
16 A. Mitchell Selip, care of Selip &  
17 Stylianou, 199 Crossway Parks Drive, Woodbury,  
18 New York 11797.  
19 Q. And just briefly, some ground rules  
20 for the deposition. I'll ask you questions;  
21 obviously you'll answer. And let's try not to  
22 speak over each other so that it is easier for  
23 the court reporter.  
24 If there are any -- if you need any  
25 breaks -- I understand you've got some back

Page 10

1 M. SELIP  
2 issues. If you need some breaks, feel free.  
3 You might hear your counsel object  
4 to certain questions. Unless he instructs you  
5 not to answer the question, answer those  
6 questions.  
7 Is there any reason you can't  
8 testify truthfully today, Mr. Selip?  
9 A. No.  
10 Q. Are you on any medications today  
11 that would impede or impair your testimony  
12 today, sir?  
13 A. No.  
14 Q. Sir, could you tell us your  
15 educational background since high school, after  
16 high school?  
17 A. Went to University of Florida for  
18 college; obtained a B.S. in business. Went to  
19 St. John's for law school. Thereafter, went to  
20 Hofstra University for several years for  
21 computer science.  
22 Q. Why did you go to Hofstra for  
23 computer science?  
24 A. I was considering changing  
25 professions and leaving the noble profession of

Page 11

1 M. SELIP  
2 law back in the early '90s.  
3 Q. Did you practice law after  
4 graduating from St. John's?  
5 A. Yes, I did.  
6 Q. For how many years?  
7 A. I graduated in '91. I've been  
8 practicing since then.  
9 Q. What was your first job after  
10 St. John's?  
11 A. It was with the Town of Babylon  
12 Attorney's Office as an assistant town  
13 attorney.  
14 Q. What year did you start there?  
15 A. I started as a law clerk while I  
16 was in law school. I don't remember the exact  
17 year. I believe I started in '89.  
18 Q. How long were you there, about?  
19 A. I left either '91 or '92,  
20 probably '92.  
21 Q. And when you took the computer  
22 science courses, it was around that time?  
23 A. No. It was -- it was after that.  
24 Q. So did you do the computer science  
25 courses at night?

Page 12

1 M. SELIP  
2 A. I did. After the town attorney's  
3 office -- I left there. I don't remember when.  
4 I worked in Manhattan for a firm by the name of  
5 Zeichner, Ellman & Krause for two years.  
6 After that I worked for a firm by  
7 the name of Jaffe & Asher for a little less  
8 than a year.  
9 I left that office October '94 to  
10 go work for Upton, Cohen & Slamowitz at the  
11 time.  
12 At that time I started night school  
13 at Hofstra for the computer science classes,  
14 which I did for approximately two to three  
15 years at night.  
16 Q. And in the end, you never pursued  
17 anything having to do with computer science?  
18 A. Well, I can't say that that's  
19 wholly an accurate statement. A lot of what I  
20 do has to do with computers now, so the  
21 education was very -- is very relevant to what  
22 I do now.  
23 Q. How is it relevant to what you do  
24 now?  
25 A. A lot of the programming and

Page 13

1 M. SELIP

2 technology involved in the business as well as  
3 in communicating with our clients is done  
4 electronically via computer programs. And my  
5 office has written its own computer program to  
6 handle much of those tasks.

7 My computer background has allowed  
8 me to write some of the programs and manage the  
9 IT staff that the office has, not generally but  
10 specifically in that I'm able to review their  
11 code and know what it says.

12 Q. When you say "review their code,"  
13 who's "their"?

14 A. My firm's IT staff. We have  
15 programmers on staff.

16 Q. So it's internal?

17 A. Yes, it is.

18 Q. Okay. And you mentioned that your  
19 firm uses technology to communicate with  
20 clients, plural, correct?

21 A. Plural as in more than one client?

22 Q. Correct.

23 A. Yes, that's correct.

24 Q. Okay. Who are the clients with  
25 whom your firm currently communicates through

Page 14

1 M. SELIP

2 these commuter systems?

3 A. I know I won't be able to name them  
4 all, so I will give you as many as I can  
5 remember. The larger clients would be Capital  
6 One, Citibank, Discover, OnCore, PRA,  
7 Resurgent, Target. That's as best as I can do  
8 in alphabetical order.

9 Q. That's fine. And what does your --  
10 now, when we talk about "your firm," we are  
11 talking about Selip & Stylianou, right?

12 But did there come a time  
13 relatively recently when Selip & Stylianou  
14 acquired or let's just say acquired Cohen &  
15 Slamowitz?

16 A. No.

17 Q. What was -- what's the relationship  
18 between Cohen & Slamowitz and Selip &  
19 Stylianou?

20 A. It's the same firm.

21 Q. Was there any kind of acquisition?

22 A. No.

23 Q. Was there a merger?

24 A. No.

25 Q. Was there a prior firm before

Page 15

1 M. SELIP

2 Selip & Stylianou other than Cohen & Slamowitz?

3 A. It's the same firm. So the other  
4 than is not working in that question.

5 Q. So the name just changed?

6 A. Yes.

7 Q. Why?

8 A. The the firm took on three  
9 additional partners, and we changed the name.

10 Q. Okay. So substantively it's the  
11 same firm?

12 A. It is the same firm.

13 Q. So during the course of our  
14 deposition today, when I refer to S&S or  
15 Selip & Stylianou, I'll be referring to the  
16 prior firm also, the predecessor firm, Cohen &  
17 Slamowitz, just so we are not confused; is that  
18 okay with you?

19 A. I prefer you refer to it as C&S.

20 Q. C&S? That's fine.

21 A. When it comes to litigation, when  
22 they're on the defense side, I'd rather you  
23 refer to it as C&S.

24 Q. Okay. Not a problem.

25 And among the firms you mentioned

Page 16

1 M. SELIP

2 was Encore, right?

3 A. Correct.

4 Q. And does C&S deal directly with  
5 Encore, with any subsidiary of Encore?

6 A. I don't know the relationship  
7 between all the different companies. The  
8 entity that I represent is Midland Funding,  
9 LLC, and I also work with Midland Capital  
10 Management.

11 Q. Do you know the difference between  
12 Midland Funding, LLC and Midland Capital  
13 Management?

14 A. It's my understanding that Midland  
15 Funding is the entity that holds the accounts  
16 receivables bought by Encore, and those  
17 receivables are managed by MCM.

18 Q. So we'll refer to them jointly as  
19 Midland, or unless there's some specific  
20 difference, that way it's easier for, I think,  
21 both of us.

22 Now, you mentioned quite a number  
23 of firms in addition to Encore. What is it  
24 that C&S does for these companies?

25 MR. FRANCOEUR: I'd just like to



Page 17

1 M. SELIP  
 2 object. At some point we're going to go  
 3 off field. Is this really relevant to the  
 4 litigation here?  
 5 MR. SALTZMAN: Yes, because we're  
 6 trying to set up the background; and then  
 7 we can be more specific as far as Encore.  
 8 BY MR. SALTZMAN:  
 9 Q. Go ahead.  
 10 A. We represent the entities with  
 11 regard to the collection of outstanding  
 12 receivables as well as advising them on  
 13 policies and procedures related to the  
 14 collection of outstanding receivables, among  
 15 other things.  
 16 Q. You say that you also vice these  
 17 companies on policies and procedures regarding  
 18 the receivables. Do you do that for Encore --  
 19 or for Midland, I should say?  
 20 A. Yes.  
 21 Q. And what sorts of policies are you  
 22 talking about?  
 23 A. At what point are we getting into  
 24 my client's -- which is privileged as to what I  
 25 can say that I advised them on? Is that

Page 18

1 M. SELIP  
 2 speaking generally?  
 3 Q. Let's start with generally.  
 4 MR. SCHWARTZ: Let me put the  
 5 objection on the record ordinary, too.  
 6 On behalf of Midland Credit  
 7 Management and Midland Funding, I'm  
 8 raising an objection. We're asserting  
 9 attorney/client privilege which is our  
 10 right; but beyond that, you can talk in  
 11 general terms.  
 12 MR. FRANCOEUR: I'm also going to  
 13 object on that basis.  
 14 THE WITNESS: Generally speaking, I  
 15 will advise them on best practices related  
 16 to the debt collection aspect of their  
 17 business. I would also advise them on  
 18 New York specific laws that would affect  
 19 their business.  
 20 BY MR. SALTZMAN:  
 21 Q. Including changes in New York law?  
 22 A. Yes.  
 23 Q. And your response, does that  
 24 include procedures that you would advise  
 25 Midland about; or is that a separate item than

Page 19

1 M. SELIP  
 2 policies?  
 3 MR. FRANCOEUR: Object to form.  
 4 THE WITNESS: Whose procedures are  
 5 you now referring to?  
 6 BY MR. SALTZMAN:  
 7 Q. Well, you testified that you advise  
 8 them on policies and procedures regarding debt  
 9 collection. And you just gave an answer about  
 10 what you advised them on.  
 11 So I'm asking you, is what you  
 12 advise them inclusive on policies and  
 13 procedures or is it just policies?  
 14 MR. FRANCOEUR: Let's clarify.  
 15 Jay, the "them" in that question, is that  
 16 Midland?  
 17 MR. SALTZMAN: Midland, yes.  
 18 MR. FRANCOEUR: Midland.  
 19 THE WITNESS: Okay. That's what I  
 20 was -- so yes. The answer's yes. Yes to  
 21 both.  
 22 BY MR. SALTZMAN:  
 23 Q. Do you have any professional  
 24 licenses other than your law license?  
 25 A. I have a bartending certificate.

Page 20

1 M. SELIP  
 2 Q. We'll talk about that after the  
 3 deposition, maybe later.  
 4 What's your title at Selip &  
 5 Stylianou?  
 6 A. I don't know if I have one.  
 7 Q. Partner?  
 8 A. I'm a partner, yes.  
 9 Q. And what are your current  
 10 responsibilities other than what we just  
 11 discussed?  
 12 A. My responsibilities have not been  
 13 reduced to writing. It encompasses anything  
 14 and everything that needs to be done; managing  
 15 the different departments within the firm,  
 16 communicating with clients, reviewing legal  
 17 work. I don't think I'm doing my role justice.  
 18 I make coffee. It encompasses a lot.  
 19 Q. Okay. You just mentioned that you  
 20 manage different departments. What departments  
 21 would those be?  
 22 A. We have what we call a contested  
 23 legal department. We have a similar  
 24 department; it's a non-contested legal  
 25 department, and it supports the legal

Page 21

1 **M. SELIP**  
 2 **department. We have a collections department,**  
 3 **judgment enforcement, IT department. There's**  
 4 **an accounting department. I think that's it.**  
 5 Q. What does the contested legal  
 6 department do?  
 7 A. That department will review new  
 8 claims when they come in from our clients.  
 9 They will review matters for suit to determine  
 10 whether or not those matters should be sued.  
 11 They handle contested legal matters, which I  
 12 define as a matter on which an answer has been  
 13 filed by the defendant, either pro se or via an  
 14 attorney, or matters where a motion has been  
 15 filed to vacate a judgment or to otherwise  
 16 effect post judgment remedy. That's about it.  
 17 Q. And what is the non-contested legal  
 18 department?  
 19 A. They support the litigation  
 20 process. By that, I mean they will staple  
 21 Summons and Complaints together. They will  
 22 make phone calls to a process server to see if  
 23 service has been accomplished or perhaps call  
 24 to stop a matter from being served.  
 25 They will follow up with clients

Page 22

1 **M. SELIP**  
 2 **for Affidavits needed to support a litigation**  
 3 **matter, and they will also put together**  
 4 **documents to support the entry of a judgment.**  
 5 **All of which is done to assist the attorneys in**  
 6 **the office.**  
 7 Q. Are these folks attorneys  
 8 generally?  
 9 A. No. They are clerks. They are  
 10 legal assistants.  
 11 Q. And what does the collections  
 12 department do?  
 13 A. Their role is to speak with  
 14 consumers in an attempt to resolve consumers'  
 15 outstanding bills.  
 16 Q. Anything else?  
 17 A. No. But in mentioning the firm's  
 18 departments, I forgot to mention a compliance  
 19 department.  
 20 Q. What is the compliance department  
 21 do?  
 22 A. It oversees every other department  
 23 to ensure that the other departments are acting  
 24 in compliance with federal, state, and local  
 25 laws; ethical considerations; as well as the

Page 23

1 **M. SELIP**  
 2 **client's requirements or expectations.**  
 3 Q. And I assume none of these are  
 4 unique to Midland. Each department deals with  
 5 all of the clients?  
 6 A. That's correct.  
 7 Q. And what does judgment enforcement  
 8 do?  
 9 A. That department will prepare  
 10 judgment enforcement documents, which would  
 11 include wage and bank garnishments, for review  
 12 and signing by an attorney as well as follow up  
 13 with the various enforcement officers  
 14 throughout the State.  
 15 Q. And the IT department, they are  
 16 involved with the communications with the  
 17 client. Is that part of their job?  
 18 A. It depends on how you define the  
 19 word communication and communicate, and I'm not  
 20 trying to be difficult.  
 21 Q. Well, let's go back. Why don't you  
 22 just tell me what they do.  
 23 A. They will upload and download files  
 24 to and from our clients. They review data that  
 25 we receive from our clients. They maintain the

Page 24

1 **M. SELIP**  
 2 **hardware in the office. It's an**  
 3 **all-encompassing role when I say IT department.**  
 4 **They also support and change the programs that**  
 5 **we have to keep track of our files.**  
 6 Q. Who's the head of the contested  
 7 legal department?  
 8 A. The firm has a managing attorney.  
 9 Her name is Alicia Stillman.  
 10 Q. How long has she been with the  
 11 firm?  
 12 A. Approximately three or four months.  
 13 Q. Who was her predecessor?  
 14 A. A gentleman by the name of Stephen,  
 15 P-H, Giametta.  
 16 Q. G-I-A --  
 17 A. M-E-T-T-A.  
 18 Q. And he left three or four months  
 19 ago?  
 20 A. I believe he left in the fall or  
 21 early winter of 2014.  
 22 Q. Where's he now?  
 23 A. He's practicing on his own.  
 24 Q. On Long Island?  
 25 A. Yes.



Page 25

1 **M. SELIP**

2 Q. And Ms. Stillman, if she's a

3 managing attorney, does she only manage the

4 contested legal department, or does she manage

5 all the departments?

6 A. The attorneys in the firm are

7 really tasked with managing all the

8 non-attorneys, which would include people in

9 other departments.

10 She directly manages the attorneys

11 in the firm, regardless of what department they

12 may be in, as well as the support staff. She

13 will indirectly manage the attorney -- the

14 non-attorneys in the other departments at the

15 firm.

16 Q. And is there then a separate head

17 of the non-contested legal department?

18 A. There's a non-attorney manager.

19 Q. Who is that?

20 A. Her name is Meagan, M-E-A-G-A-N,

21 Lynch, L-Y-N-C-H.

22 Q. How long has she been with the

23 firm?

24 A. Years. Seven, eight, nine years.

25 I don't recall the exact number.

Page 26

1 **M. SELIP**

2 Q. And what about the collections

3 department, who manages that?

4 A. The firm has a director of

5 operations, and one of her main tasks is to

6 manage the collections department. The

7 collections department has two senior managers

8 and about a half a dozen managers.

9 Q. So who is the operations manager?

10 A. Veronica Radin, R-A-D-I-N.

11 Q. How long has she been with the

12 firm?

13 A. Six, seven years or so.

14 Q. And who are the other managers

15 below her?

16 A. There are two senior managers in

17 the collections department, Gene Clive

18 Fils-Aime, F-I-L-S, dash A-I-M-E.

19 Another senior manager is Shawna

20 Hussain, H-U-S-S-A-I-N.

21 Q. How long have they been with the

22 firm?

23 A. Somewhere probably between 10 and

24 15 years.

25 Q. Each?

Page 27

1 M. SELIP

2 A. I think so.

3 Q. And then you mentioned that there

4 were some other managers below them, I believe,

5 right?

6 A. In that collections department,

7 yes, there would be some managers below them.

8 Q. How many?

9 A. Let's see. There's Adriano

10 Sapugay. I can get you the names afterwards --

11 Q. Sure.

12 A. -- if you find it relevant. I'm

13 sorry. I'm drawing a blank on the names.

14 Q. Is there some kind of org chart for

15 the firm?

16 A. Yes, there is.

17 MR. SALTZMAN: We would call for

18 the production of the org chart.

19 MR. FRANCOEUR: We will take it

20 under advisement.

21 (Whereupon, Request No. 1,

22 Organizational Chart for Cohen &

23 Slamowitz, was made.)

24 BY MR. SALTZMAN:

25 Q. I'd like to mark as Exhibit 1

Page 28

1 M. SELIP

2 Plaintiffs' Amended Rule 30(b)(6) Deposition

3 Notice to Cohen & Slamowitz dated April 10,

4 2015.

5 (Whereupon, Exhibit No. 1,

6 Plaintiffs' Amended Rule 30 (b) (6)

7 Deposition Notice to Cohen & Slamowitz,

8 dated April 10, 2015, was marked for

9 identification.)

10 MR. SALTZMAN: As Exhibit 2

11 Plaintiffs' Second Amended Rule 30(b)(6)

12 Deposition Notice to Cohen & Slamowitz,

13 LLP, dated July 31, 2015.

14 (Whereupon, Exhibit No. 2,

15 Plaintiffs' Second Amended Rule 30 (b) (6)

16 Deposition Notice to Cohen & Slamowitz,

17 dated April 10, 2015, was marked for

18 identification.)

19 BY MR. SALTZMAN:

20 Q. Have you ever seen these documents

21 before, sir?

22 A. I don't believe so.

23 Q. Do you understand that you are here

24 pursuant to a Notice of Deposition?

25 A. I'm sorry, could you repeat that?

Page 29

1 **M. SELIP**

2 Q. Do you understand that you are here

3 pursuant to a Notice of Deposition?

4 **A. Yes.**

5 Q. But you've never seen these before?

6 **A. I know that I've seen a variation.**

7 **I just don't -- okay. So I believe I've seen**

8 **the one dated July 31 and not the one dated**

9 **April 30.**

10 Q. They're substantially the same.

11 Are you competent to testify about the issues

12 that are contained in Exhibit 1?

13 **A. Yes.**

14 **MR. FRANCOEUR:** Counsel, just to

15 correct, he said he saw Exhibit 2.

16 **MR. SALTZMAN:** Okay.

17 **MR. FRANCOEUR:** For clarity of the

18 record.

19 **MR. SALTZMAN:** No problem.

20 **BY MR. SALTZMAN:**

21 Q. Sir, have you ever been deposed

22 before?

23 **A. Yes, I have.**

24 Q. When have you been deposed before?

25 **A. Approximately 1990 as a result of a**

Page 30

1 **M. SELIP**

2 **motor vehicle accident. In that case I was the**

3 **plaintiff.**

4 **I was deposed approximately four,**

5 **five years ago in a personal injury action**

6 **filed by a gentleman who was injured in my**

7 **landlord's parking lot.**

8 Q. Anything else?

9 **A. No.**

10 Q. Have you ever given any statements

11 or testimony to any governmental or regulatory

12 agency in connection with C&S's collection of

13 debts?

14 **A. I may have.**

15 Q. When?

16 **A. I know that the firm has requested**

17 **licenses from New York City, City of Yonkers.**

18 **MR. ARLEO:** Excuse me. Robert

19 Arleo here. I could hear Mitchell fine.

20 Mr. Frank, if you could just speak up a

21 little bit, I'd appreciate that.

22 **MR. SALTZMAN:** It's Mr. Saltzman,

23 but yes, I'll speak up. No problem.

24 **MR. ARLEO:** I'm sorry.

25 **THE WITNESS:** I'm going to try to

Page 31

1 **M. SELIP**

2 move the phone. Maybe if you put it

3 between us, that would work for you.

4 So Jay, what did you call Rob?

5 **BY MR. SALTZMAN:**

6 Q. When you say you requested

7 licenses?

8 **MR. ARLEO:** I want you to take

9 notes and report accordingly. Thank you.

10 **BY MR. SALTZMAN:**

11 Q. What licenses did your firm pursue?

12 **A. Debt collection licenses.**

13 Q. And did you do anything to prepare

14 for this deposition?

15 **A. I had conversations with my**

16 **counsel.**

17 Q. Anything else?

18 **A. I generally reviewed the document**

19 **marked Exhibit 2 along with some of the**

20 **documents that we produced as part of the**

21 **discovery in this matter.**

22 Q. Do you recall which documents you

23 reviewed?

24 **A. Some of the notes that my office**

25 **maintained with regard to the litigation filed**

Page 32

1 **M. SELIP**

2 **against David Agoado. I thumbed through many**

3 **of the documents that were turned over. I just**

4 **don't remember exactly which ones I looked at.**

5 Q. Anything else?

6 **A. Anything else what?**

7 Q. That you reviewed.

8 **A. No.**

9 Q. Did you speak to anyone other than

10 your attorneys in connection with preparation

11 for this deposition?

12 **A. No.**

13 Q. Did you meet with your attorneys?

14 **A. Did I?**

15 Q. Meet with your attorneys?

16 **A. Yes.**

17 Q. When?

18 **A. Monday.**

19 Q. For how long?

20 **MR. FRANCOEUR:** I object. You can

21 answer.

22 **THE WITNESS:** How long did I meet

23 with them in total, or how long did we

24 meet to prepare for --

25 **MR. FRANCOEUR:** You know, I'm going

Page 33

1 M. SELIP  
 2 to object on privilege. I don't think  
 3 you're entitled to know how long we met.  
 4 **MR. SALTZMAN:** I'm not asking  
 5 anything substantive. I'm just asking how  
 6 many hours.  
 7 **MR. FRANCOEUR:** I'm not going to  
 8 let him answer.  
 9 **BY MR. SALTZMAN:**  
 10 Q. Did you speak to anyone at Midland  
 11 about this deposition?  
 12 **A. No.**  
 13 Q. Did you speak to any of the other  
 14 attorney -- or anybody from any of the other  
 15 attorney defendant firms in this case about  
 16 your deposition?  
 17 **A. No.**  
 18 Q. Did you take any notes in the  
 19 course of your preparation for this deposition?  
 20 **A. No.**  
 21 Q. Other than preparing for this  
 22 deposition and appearing today, have you done  
 23 anything else in connection with this  
 24 litigation?  
 25 **MR. FRANCOEUR:** Object to form.

Page 34

1 M. SELIP  
 2 Answer if you can.  
 3 **THE WITNESS:** I'm sure at some  
 4 point, I reviewed the pleadings. I  
 5 reviewed the discovery. I have no present  
 6 recollection of exactly what I did; but as  
 7 part of my role with the firm, I would  
 8 have been involved at some point.  
 9 **BY MR. SALTZMAN:**  
 10 Q. So you participated in managing  
 11 your counsel in connection with this  
 12 litigation?  
 13 **MR. FRANCOEUR:** Objection to form.  
 14 Do you understand the question?  
 15 **THE WITNESS:** Did I participate in  
 16 managing counsel? Managing --  
 17 **BY MR. SALTZMAN:**  
 18 Q. Did you give direction to your  
 19 counsel in direction with this litigation?  
 20 **MR. FRANCOEUR:** Objection. That's  
 21 privileged communication. All  
 22 communications between Mitchell Selip,  
 23 Selip & Stylianou, and counsel are  
 24 privileged.  
 25 I instruct him not to answer on any

Page 35

1 M. SELIP  
 2 information that was discussed.  
 3 **MR. SALTZMAN:** Well, I'm not asking  
 4 the content of the discussion, just  
 5 whether there was discussion?  
 6 **MR. FRANCOEUR:** I thought he  
 7 answered that, but you can answer that  
 8 again.  
 9 **THE WITNESS:** Yes, there was  
 10 discussion.  
 11 **BY MR. SALTZMAN:**  
 12 Q. How long did C&S come in contact  
 13 with Midland?  
 14 **A. I really don't recall.**  
 15 Q. How many years ago was it that you  
 16 recall?  
 17 **A. Without guessing, I do not have the**  
 18 **exact number of years.**  
 19 Q. More than ten years?  
 20 **A. I believe so, yes.**  
 21 Q. And is there an agreement between  
 22 Midland and C&S that covers C&S's collection of  
 23 debt on behalf of Midland?  
 24 **A. There's a retainer agreement, yes.**  
 25 Q. When was that negotiated originally

Page 36

1 M. SELIP  
 2 if you recall?  
 3 **A. I do not know.**  
 4 Q. And was it ever renegotiated or  
 5 amended?  
 6 **A. I really don't know.**  
 7 Q. Was it amended when C&S became S&S?  
 8 **A. Again, just as a remainder, it's**  
 9 **the same firm with just the name change. So**  
 10 **there would be no need to enter into a new**  
 11 **contract because of a name change.**  
 12 **I do not believe that a new**  
 13 **retainer was signed.**  
 14 **MR. SALTZMAN:** I'd like to mark as  
 15 Selip 3 a document Bates stamped MCM 0838  
 16 through 0866, and the title is Collection  
 17 Agreement.  
 18 (Whereupon, Exhibit No. 3,  
 19 Collection Agreement, was marked for  
 20 identification.)  
 21 **BY MR. SALTZMAN:**  
 22 Q. Mr. Selip, have you ever seen this  
 23 document before?  
 24 **A. Probably.**  
 25 Q. Do you know when the last time you

Page 37

1 M. SELIP  
 2 saw this document was?  
 3 **A. I don't recall.**  
 4 Q. You haven't seen it recently?  
 5 **A. I really don't recall.**  
 6 Q. Take a look page at MCM 0838. Do  
 7 you see in the second paragraph it says,  
 8 "Whereas, certain subsidiaries of MCM owners  
 9 own certain charge-off consumer and commercial  
 10 receivables"?  
 11 It's the first "whereas." Do you  
 12 see that?  
 13 **A. Yes.**  
 14 Q. Do you know who the MCM owners are?  
 15 **MR. FRANCOEUR:** Objection to the  
 16 form. Answer if you can.  
 17 **THE WITNESS:** In 2006 I don't --  
 18 since that's the date of the agreement, I  
 19 don't recall who the MCM owners are or  
 20 were in 2006.  
 21 **BY MR. SALTZMAN:**  
 22 Q. What about now?  
 23 **A. It's my understanding that the**  
 24 **owners are Midland Funding, LLC. Owner. And**  
 25 **there can be other owners, but I would not have**

Page 38

1 **M. SELIP**  
 2 **knowledge of who they are. I'm only familiar**  
 3 **with the owners as regards accounts placed to**  
 4 **me in New York.**  
 5 Q. And that would be with Midland --  
 6 through Midland Funding? Well, Midland Funding  
 7 the owner would be through MCM?  
 8 **A. That's correct.**  
 9 Q. And so your dealings have been with  
 10 MCM?  
 11 **A. Correct.**  
 12 Q. Now, if you look at the second  
 13 "whereas," it says, "Whereas, MCM acts on  
 14 behalf of the MCM owners as an independent  
 15 contractor in connection with debt collection  
 16 activities as well as general administrative  
 17 and non-collection activities relating to the  
 18 accounts."  
 19 Do you know what the "general  
 20 administrative and non-collection activities"  
 21 are that are being referred to there?  
 22 **A. I can't speak to certainty as to**  
 23 **what those terms are all inclusively.**  
 24 Q. Well, if you can't talk to it with  
 25 certainty and all inclusively, can you tell us

Page 39

1 M. SELIP  
 2 what your impressions are?  
 3 **A. As I mentioned, MCM manages the**  
 4 **accounts from placing them with my firm to**  
 5 **communicating with my firm with regards to the**  
 6 **status of the accounts, to paying our bills,**  
 7 **reimbursing us for court costs. That's my**  
 8 **understanding as to what's referred to as**  
 9 **general administrative and non-collection**  
 10 **activities.**  
 11 Q. And if you look under the section  
 12 "definitions," there's a definition for closing  
 13 code. And it says "means the system code  
 14 placed on an account and transmitted with the  
 15 account at the time the firm closes the account  
 16 for any reason and returns it to MCM."  
 17 Is the closing code something that  
 18 is transmitted through the IT systems that we  
 19 were discussing a little earlier this morning?  
 20 **A. Yes.**  
 21 Q. And what is it? What is a closing  
 22 code?  
 23 **A. A code is something that is**  
 24 **predefined, used by MCM and all of its law**  
 25 **firms in order to standardize the communication**

Page 40

1 **M. SELIP**  
 2 **of information. Particular with the close**  
 3 **codes, it would be any one of a list of codes**  
 4 **that we can use to close an account that we are**  
 5 **no longer handling on behalf of MCM or Midland**  
 6 **Funding.**  
 7 Q. And you mentioned that there's a  
 8 list of codes, correct?  
 9 **A. Yes.**  
 10 Q. Where's that list of codes reside?  
 11 **A. Midland has a work standards**  
 12 **document, operations manual. I don't recall**  
 13 **the exact name that it gives to this document,**  
 14 **but that document would include a list of the**  
 15 **codes that we can use.**  
 16 Q. And this manual, does C&S have a  
 17 copy of it?  
 18 **A. Yes.**  
 19 Q. Is it a paper copy?  
 20 **A. Both paper and electronic.**  
 21 **MR. SALTZMAN:** We call for the  
 22 production of this manual.  
 23 **MR. FRANCOEUR:** We'll take it under  
 24 advisement.  
 25



Page 41

1 M. SELIP  
 2 (Whereupon, Request No. 2, Manual  
 3 of Midland Funding, LLC's expectations and  
 4 codes, was made.)  
 5 **MR. FRANCOEUR:** What is the manual?  
 6 **THE WITNESS:** It's a work --  
 7 **MR. FRANCOEUR:** The codes.  
 8 **BY MR. SALTZMAN:**  
 9 Q. No. It's more broad than that.  
 10 What is the manual that contains the codes?  
 11 **A. It's a document that sets forth the**  
 12 **expectations that Midland has of its law firms.**  
 13 **MR. FRANCOEUR:** Okay. We'll take  
 14 it under advisement.  
 15 **BY MR. SALTZMAN:**  
 16 Q. When you say it sets forth the  
 17 expectations -- well, why don't we talk about  
 18 the manual.  
 19 So you mentioned that it has a list  
 20 of codes, and you also said that it sets forth  
 21 the expectations that Midland has for its law  
 22 firms.  
 23 What else is in the manual?  
 24 **A. Expectations about how we are to**  
 25 **represent Midland both in and out of court in**

Page 42

1 **M. SELIP**  
 2 **connection with the matters on which we have**  
 3 **been retained by them.**  
 4 Q. And the expectations of how you're  
 5 to represent Midland in court, what does that  
 6 mean?  
 7 **A. Midland generally has a code of**  
 8 **conduct that gives to us a general guide as to**  
 9 **how it wants us to handle its consumers.**  
 10 Q. Is that legal advice?  
 11 **MR. FRANCOEUR:** Objection. It  
 12 calls for a legal conclusion. He's not  
 13 here as an expert.  
 14 **BY MR. SALTZMAN:**  
 15 Q. Okay. You said that it's a code of  
 16 conduct, the general guide of how --  
 17 **MR. SALTZMAN:** Can you read back  
 18 that answer.  
 19 **THE COURT REPORTER:** Sure.  
 20 (The record was read as follows:  
 21 Answer: Midland generally has a  
 22 code of conduct that gives to us a general  
 23 guide as to how it wants us to handle its  
 24 consumers.)  
 25

Page 43

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. What do you mean by "how it wants  
 4 us to handle its consumers"?  
 5 **A. How it wants us to handle our**  
 6 **interactions with consumers.**  
 7 Q. What interactions?  
 8 **A. When we speak with a consumer or**  
 9 **when we meet with a consumer in court, there**  
 10 **are certain guidelines that it wants us to**  
 11 **follow, which includes complying with all**  
 12 **applicable laws.**  
 13 Q. Anything else? You said including.  
 14 Anything else?  
 15 **A. It indicates what steps we can and**  
 16 **cannot take with regard to enforcing a**  
 17 **judgment. It includes procedures on how to**  
 18 **handle accounts where consumers have hardships.**  
 19 **I don't recall all the provisions within that**  
 20 **document.**  
 21 Q. What -- in the manual, what steps  
 22 does the manual tell you, you can take when  
 23 enforcing a judgment?  
 24 **A. My recollection is that it**  
 25 **generally says that we can take the steps**

Page 44

1 **M. SELIP**  
 2 **permissible by state law.**  
 3 Q. And what steps does the manual tell  
 4 you, you cannot take when enforcing a judgment?  
 5 **A. It does not want its law firms to**  
 6 **take any personal property from judgment**  
 7 **debtors with the exclusion of funds in a bank**  
 8 **account or wages that can be garnished.**  
 9 Q. Anything else that you cannot do  
 10 pursuant to this manual?  
 11 **A. It states that we cannot take any**  
 12 **steps to arrest or hold a consumer in contempt**  
 13 **for failure to comply with a subpoena.**  
 14 Q. And what does the manual describe  
 15 as hardships that a consumer might have?  
 16 **A. There are medical hardships,**  
 17 **financial hardships. Those are the areas that**  
 18 **I can recall at this time.**  
 19 Q. What's the manual tell C&S about  
 20 how to handle such consumers who have  
 21 hardships?  
 22 **A. It varies depending on the**  
 23 **hardship. If it's a temporary financial**  
 24 **hardship, Midland asks that we work with the**  
 25 **consumer while it's undergoing that hardship to**

Page 45

1 **M. SELIP**

2 **allow the consumer to pay his or her obligation**

3 **within his or her means.**

4 **If it's a permanent hardship, we**

5 **would close the file and return it to Midland.**

6 Q. Now, you mentioned that the manual

7 is a code of conduct as a general guide on the

8 expectations of how C&S should act in and out

9 of court.

10 What do you mean by "out of court"?

11 Are those the things we were just discussing?

12 **A. If we were to speak with a consumer**

13 **outside of the courtroom, it would all --**

14 **everything I said would apply.**

15 Q. Okay.

16 **A. The setting doesn't matter. It**

17 **applies to communications whether it takes**

18 **place in person or over the telephone.**

19 Q. And manual is C&S's guide on how to

20 do that, correct?

21 **A. Yes.**

22 Q. And C&S endeavors to follow that

23 guideline?

24 **A. Yes.**

25 Q. Are there any other manuals that

Page 46

1 **M. SELIP**

2 Midland provides to C&S in connection with the

3 debt collection?

4 **A. Not that I can recall.**

5 Q. What are the different closing

6 codes that you recall, sitting here today?

7 **A. There may be 15 or 20 different**

8 **codes. They range from closing a file because**

9 **I don't have sufficient documentation to**

10 **proceed. I can close a file because I**

11 **generally deem it uncollectible. Fraud,**

12 **dispute, paid prior, hardship, paid of course,**

13 **settled, bankrupt, the consumer's deceased,**

14 **dismissed by the court both with and without**

15 **prejudice, the consumer moves outside of the**

16 **state. There's a code for that.**

17 Q. Are there codes other than closing

18 codes?

19 **A. Yes.**

20 Q. And are those codes also referenced

21 in the manual that we've been discussing?

22 **A. Yes.**

23 Q. And those codes are provided by

24 Midland?

25 **A. Yes.**

Page 47

1 **M. SELIP**

2 Q. Is there a code for C&S to notify

3 Midland that it needs additional documentation

4 in order to proceed with the pursuit of a

5 collection matter?

6 **A. There's a mechanism for requesting**

7 **additional documentation. I don't recall if**

8 **it's a code. I believe it is.**

9 Q. Do you know what the code is?

10 **A. No, offhand, I don't know any of**

11 **the codes.**

12 Q. And is it -- go ahead, sorry.

13 **A. And we associate the codes with our**

14 **internal codes. So I would not know what**

15 **Midland's code is. I would only know what my**

16 **association is.**

17 Q. Okay. Just -- just so we're clear

18 so your company has its own set of codes; is

19 that correct?

20 **A. Yes.**

21 Q. And Midland has its set of codes?

22 **A. Yes.**

23 Q. So then I would assume there's some

24 kind of interface table?

25 **A. That is correct.**

Page 48

1 **M. SELIP**

2 **MR. SALTZMAN:** Okay. We call for

3 the production of the interface table.

4 (Whereupon, Request No. 3,

5 Interface Table, was made.)

6 **BY MR. SALTZMAN:**

7 Q. Well, do you have -- is there a

8 manual that you are firm has in connection with

9 the IT side of this, any interaction with

10 Midland?

11 **A. That's a broad question. Could you**

12 **be more specific?**

13 Q. Sure. So you testified that your

14 firm has its own codes that seem to correspond

15 with Midland's codes; is that right?

16 **A. That's correct.**

17 Q. Okay. So where are your codes

18 stored in your firm?

19 **A. In our collection system.**

20 Q. And can those be printed out?

21 **A. Yes.**

22 Q. I would call for the production of

23 those codes.

24

25



Page 49

1 M. SELIP  
 2 (Whereupon, Request No. 4, Cohen &  
 3 Slamowitz, LLP, internal codes  
 4 corresponding with Midland Funding, LLC's  
 5 codes, was made.)  
 6 **BY MR. SALTZMAN:**  
 7 Q. So internally in C&S, is there a  
 8 code by which somebody in C&S can request from  
 9 Midland additional documentation in order to  
 10 pursue a collection matter?  
 11 **A. Yes, there is.**  
 12 Q. And that would correspond to some  
 13 code in the Midland system?  
 14 **A. That's correct.**  
 15 Q. Okay. What's that code?  
 16 **A. There are several codes that we**  
 17 **have depending on what media that we need. Our**  
 18 **system -- the user of our system wouldn't put**  
 19 **in a code. It would use a screen that we have**  
 20 **created. We would go on to the screen, and we**  
 21 **would indicate on that screen what it is that**  
 22 **we need.**  
 23 **That would then send a message of**  
 24 **sorts to the clerk who, in turn, will ask for**  
 25 **that information from Midland.**

Page 50

1 **M. SELIP**  
 2 Q. Does the clerk actually enter a  
 3 code then?  
 4 **A. I don't recall if the person who**  
 5 **needs the codes and then clicks on the spots in**  
 6 **our screen, if that action leads to the codes**  
 7 **being entered into my system or if it's the**  
 8 **person who's requesting it from Midland.**  
 9 **Midland retains a site on which it**  
 10 **keeps certain documentation. We would -- the**  
 11 **clerk responsible for trying to receive the**  
 12 **media would go initially on to that site to try**  
 13 **to get that documentation.**  
 14 **If the information we need is not**  
 15 **there, then I think it's at that point where we**  
 16 **enter our codes that then translate to**  
 17 **Midland's codes to request specific information**  
 18 **that we need.**  
 19 Q. Okay. So you're not exactly sure  
 20 about how it works, right?  
 21 **MR. FRANCOEUR: Objection.**  
 22 **THE WITNESS: Our procedure has**  
 23 **changed. And as it stands right now, I'm**  
 24 **not a hundred percent sure the details of**  
 25 **the system.**

Page 51

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. Okay. Now, if I wanted to know the  
 4 details of the system -- strike that.  
 5 If you get a new employee and that  
 6 employee needs to know the details of that  
 7 system, how is that new employee going to learn  
 8 the details?  
 9 **A. That person would sit with the**  
 10 **manager of the department responsible for**  
 11 **seeking media from our clients and would be**  
 12 **taught by that manager what codes to enter.**  
 13 Q. Would that new employee be given  
 14 any kind of documentation?  
 15 **A. Yes. We have a procedures manual**  
 16 **on how to request the information from our**  
 17 **clients.**  
 18 Q. Okay.  
 19 **MR. SALTZMAN: So we would call for**  
 20 **the production of the procedures manual,**  
 21 **please.**  
 22 **MR. FRANCOEUR: We will take it**  
 23 **under advisement.**  
 24 **BY MR. SALTZMAN:**  
 25 Q. How are you doing? How's your

Page 52

1 M. SELIP  
 2 back?  
 3 **A. It's okay. Thank you.**  
 4 Q. Are you doing okay?  
 5 **A. Yes, thank you.**  
 6 Q. I just want to clarify. You  
 7 mentioned media a couple of times. What did  
 8 you mean by "media"?  
 9 **A. Media, as I use that term, it would**  
 10 **be an all-inclusive term to indicate any of the**  
 11 **documentation that we may need to support our**  
 12 **efforts to collect an outstanding receivable**  
 13 **from the party liable.**  
 14 **MR. FRANCOEUR: Counsel, maybe at**  
 15 **10:30 let's take a short break?**  
 16 **MR. SALTZMAN: 10:30? Sure.**  
 17 **BY MR. SALTZMAN:**  
 18 Q. Let's go back to Selip 3, sir. If  
 19 you look at page MCM 839, the fourth paragraph  
 20 mentions financial reports; and it says, "It  
 21 consists of reports now or hereafter existing  
 22 or modified, including, but not limited to, the  
 23 daily invoicing report and the ACH cumulative  
 24 report."  
 25 Do you see that?

Page 53

1 M. SELIP

2 **A. Yes.**

3 Q. Do you know what "the daily

4 invoicing report" is?

5 **A. Not offhand, no.**

6 Q. Okay. Is there some mechanism by

7 which C&S daily invoices Midland?

8 **A. I don't recall.**

9 Q. How often does C&S invoice Midland?

10 **A. I don't know.**

11 Q. Does it ever invoice Midland?

12 **A. I'm not sure.**

13 Q. How is C&S paid by Midland?

14 **A. With money.**

15 **MR. SALTZMAN:** I move to strike.

16 **BY MR. SALTZMAN:**

17 Q. How does C&S indicate to Midland

18 that it's collected debt from a consumer?

19 **A. On a daily basis, we report to**

20 **Midland all of the payments received by us on**

21 **that day.**

22 Q. And that's a daily report?

23 **A. Yes, it is.**

24 Q. And does Midland take any action

25 when it receives that report? Do you know?

Page 54

1 M. SELIP

2 **A. I would assume so. It's a question**

3 **better geared for Midland.**

4 Q. Okay. But --

5 **MR. FRANCOEUR:** I'm going to object

6 and instruct the witness don't guess.

7 **BY MR. SALTZMAN:**

8 Q. Well, why does C&S send this daily

9 report to Midland?

10 **A. So that Midland knows the money**

11 **that we have collected on its end.**

12 Q. Do you expect to get paid because

13 of that collection?

14 **A. Yes.**

15 Q. So you kind of the daily invoice in

16 a way, isn't it?

17 **MR. FRANCOEUR:** Objection to form.

18 **THE WITNESS:** It depends on how you

19 define the term "invoice."

20 What we submit to them, we consider

21 it a remit. It's a remittance statement.

22 I don't recall if that statement also says

23 how much it owes us. So I can't call it

24 an invoice.

25

Page 55

1 M. SELIP

2 **BY MR. SALTZMAN:**

3 Q. But you have an expectation of

4 getting paid based on that report, right?

5 **A. Correct.**

6 Q. Okay. Did you ever hear of

7 something called an ACH cumulative report?

8 **A. Yes.**

9 Q. What is that?

10 **A. That's a report that tells us how**

11 **much money Midland is going to pull from its**

12 **escrow account.**

13 Q. What escrow account?

14 **A. We maintain an escrow account for**

15 **monies that we collect on behalf of Midland.**

16 Q. Why?

17 **A. Why what?**

18 Q. Why do you maintain an escrow

19 account on behalf of monies collected?

20 **A. Because as an attorney, we are**

21 **required to maintain an escrow account for**

22 **monies collected on behalf of our clients.**

23 Q. When you said that the ACH report

24 tells C&S how much money Midland will pull from

25 the escrow account, what do you mean by "pull

Page 56

1 M. SELIP

2 from the escrow account"?

3 **A. Midland will ACH from that account**

4 **an amount of money related to collections that**

5 **we -- money we collected for a given day.**

6 Q. What does ACH stand for?

7 **A. I don't recall.**

8 Q. Does Midland leave any money in the

9 escrow account for C&S, or does Midland cut

10 checks to C&S as payment?

11 **A. I'm not involved in the financial**

12 **aspect of the firm, so I do not know the answer**

13 **to that question.**

14 Q. Who would?

15 **A. Mitch Slamowitz.**

16 Q. What's his position?

17 **A. Partner.**

18 Q. So is he the fellow to ask if I

19 have questions about how C&S is paid by

20 Midland?

21 **MR. FRANCOEUR:** Objection to form.

22 You can answer.

23 **THE WITNESS:** He would be one of

24 the people, yes.

25

Page 57

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. Would you be able to answer  
 4 questions that I might have about that?  
 5 **A. Generally, yes. Specifically, I**  
 6 **don't believe I have that information.**  
 7 Q. Now, the daily report that we just  
 8 discussed that C&S sends to Midland, is that  
 9 maintained for any length of time on C&S's  
 10 systems?  
 11 **A. Yes, it is.**  
 12 Q. For how long?  
 13 **A. At least seven years. I don't**  
 14 **believe beyond that.**  
 15 Q. And is -- do you know why it's  
 16 maintained seven years as opposed to any other  
 17 number of years?  
 18 **MR. FRANCOEUR:** Objection.  
 19 **THE WITNESS:** I believe ethically I  
 20 need to maintain records for that period  
 21 of time.  
 22 **BY MR. SALTZMAN:**  
 23 Q. Does Midland require C&S to  
 24 maintain documents for any particular period of  
 25 time?

Page 58

1 M. SELIP  
 2 **A. I don't recall.**  
 3 **MR. SALTZMAN:** Why don't we take a  
 4 break now.  
 5 (Whereupon, a short break was  
 6 taken.)  
 7 **BY MR. SALTZMAN:**  
 8 Q. Mr. Selip, we're back on the  
 9 record. You understand you are still under  
 10 oath, right?  
 11 **A. Yes.**  
 12 Q. Going back to the collection  
 13 agreement, Selip 3, if you take a look at page  
 14 MCM 0840, Section 2.22, it's titled "forwarding  
 15 of Accounts."  
 16 What does it mean to forward an  
 17 account?  
 18 **A. Generally speaking, it's when one**  
 19 **entity places an account with another entity.**  
 20 Q. And when you say "entity," do you  
 21 mean a law firm, an original creditor, a  
 22 creditor? What do you mean by that?  
 23 **A. Well, the term "forwarding," just**  
 24 **generally speaking, means one person is giving**  
 25 **something to somebody else. So I guess it**

Page 59

1 **M. SELIP**  
 2 **would be all inclusive. It could be a**  
 3 **forwarder -- a creditor giving it to someone**  
 4 **else, a law firm giving it to somebody else.**  
 5 **It was a very general question.**  
 6 Q. Okay. So now, looking at the  
 7 paragraph itself, it says, "Except as  
 8 specifically permitted by this Section 2.2, the  
 9 firm is not permitted and shall not forward or  
 10 transfer any accounts to any third-party."  
 11 Is that a more specific  
 12 understanding for you of what forwarding is in  
 13 the context of C&S's business?  
 14 **A. Yes, it is.**  
 15 Q. And what does that mean?  
 16 **A. I read that to mean that I'm not**  
 17 **able to retain a law firm or any third-party to**  
 18 **do the work that my firm was retained to do by**  
 19 **MCM.**  
 20 Q. So if, for example, if -- now,  
 21 let's step back just for a second.  
 22 Your firm, it covers all of  
 23 New York State?  
 24 **A. Yes.**  
 25 Q. Okay. So if Midland places an

Page 60

1 M. SELIP  
 2 account for collection with C&S that's, for  
 3 example, in Buffalo, does that mean that C&S  
 4 has to go up to Buffalo, send one of their  
 5 attorneys up to Buffalo for a hearing pursuant  
 6 to this paragraph?  
 7 **A. That's correct.**  
 8 Q. And is that what C&S actually does?  
 9 **A. Yes, we do.**  
 10 Q. Does C&S ever retain, for example,  
 11 local counsel in order to appear on behalf of  
 12 C&S?  
 13 **A. Yes, we do. Well, it's not to**  
 14 **appear on our behalf. It's to appear on behalf**  
 15 **of our client.**  
 16 Q. Right. Okay. That's right. And  
 17 do you need to get permission from Midland in  
 18 order to do that?  
 19 **A. It depends on the purpose of the**  
 20 **court appearance.**  
 21 Q. Okay. So why don't you tell me  
 22 about that.  
 23 **A. If the court appearance is a**  
 24 **non-dispositive court appearance, then we will**  
 25 **utilize local appearance counsel to attend. If**

Page 61

1                   **M. SELIP**  
 2   **the court appearance has the potential of**  
 3   **leading to a final disposition of the case,**  
 4   **then we will send one of our own attorneys.**  
 5   Q.   And is what you just said, is that  
 6   pursuant to an instruction or an agreement with  
 7   Midland on how to handle the accounts?  
 8   **A.   That is my understanding and**  
 9   **reading of this section.**  
 10   Q.   But is there something in a Midland  
 11   manual that tells us what you just said about  
 12   how to handle something that is not local?  
 13   **A.   I don't recall.**  
 14   Q.   Okay. But does -- so in the case  
 15   of something that is non-dispositive, Midland  
 16   has discretion on retaining local counsel to  
 17   appear on behalf of -- I'm sorry, C&S has  
 18   discretion to retain local counsel to appear on  
 19   behalf of Midland if it's not non-dispositive;  
 20   is that right?  
 21   **A.   That's correct.**  
 22   Q.   And if it is potentially  
 23   dispositive, then Midland -- sorry, C&S is  
 24   going to send one of its attorneys up to  
 25   Buffalo or Elmira or Utica or somewhere else,

Page 62

1                   **M. SELIP**  
 2   correct?  
 3   **A.   That's correct.**  
 4   Q.   If it is a dispositive motion and  
 5   it's not a local case, you know, for example,  
 6   it's up further north, upstate somewhere, are  
 7   there any instances where C&S requires a  
 8   witness from Midland to appear in that hearing?  
 9   **MR. FRANCOEUR:** Objection to form.  
 10   **THE WITNESS:** My firm doesn't  
 11   require Midland to do anything, relative  
 12   to your question.  
 13   **BY MR. SALTZMAN:**  
 14   Q.   Okay. Does for one of these  
 15   nonlocal dispositive hearings, has C&S ever  
 16   requested that Midland provide a witness to  
 17   appear?  
 18   **A.   Yes.**  
 19   Q.   And has Midland sent witnesses to  
 20   appear at these nonlocal hearings?  
 21   **A.   Yes.**  
 22   Q.   How often does that happen?  
 23   **A.   I don't really keep track. I can't**  
 24   **tell you.**  
 25   Q.   Does anybody keep track?

Page 63

1                   **M. SELIP**  
 2   **A.   Alicia may know.**  
 3   Q.   And that's Ms. Stillman?  
 4   **A.   Correct.**  
 5   Q.   She's the managing attorney?  
 6   **A.   That's correct.**  
 7   Q.   And if she may know, then she might  
 8   keep statistics; is that right?  
 9   **A.   She may.**  
 10   Q.   You don't know if she does or not?  
 11   **A.   No.**  
 12   Q.   She's the person I would have to  
 13   talk to, to find out if she does; is that  
 14   right?  
 15   **A.   Among others in my office, yes.**  
 16   Q.   Who else might know if such  
 17   statistics were being kept?  
 18   **A.   We have a calendar clerk. That**  
 19   **person may know. We have some managers,**  
 20   **non-attorney managers who may know.**  
 21   Q.   Who's the calendar clerk?  
 22   **A.   I think calendar is currently being**  
 23   **handled by Jen Zecher, who is also a manager.**  
 24   **I think she splits that responsibility with**  
 25   **another manager whose name is Mary Reaber?**

Page 64

1                   **M. SELIP**  
 2   Q.   Can you spell her last name,  
 3   please?  
 4   **A.   R-E-A-B-E-R.**  
 5   Q.   How long has Ms. Zecher been at  
 6   your firm?  
 7   **A.   Six, seven, eight years.**  
 8   Q.   And Ms. Reaber?  
 9   **A.   A little shorter, perhaps four or**  
 10   **five years.**  
 11   Q.   And who are the other people who  
 12   might know?  
 13   **A.   The attorneys would know if they**  
 14   **had a Midland witness appear, of course. Their**  
 15   **paras or legal assistants may know.**  
 16   Q.   Now, these witnesses who appear,  
 17   are they Midland employees?  
 18   **A.   Yes.**  
 19   Q.   Are they ever employees of the  
 20   original creditor?  
 21   **MR. FRANCOEUR:** Objection to form.  
 22   Do you understand the question?  
 23   **THE WITNESS:** I do. I'm not aware  
 24   of any employee of an original creditor  
 25   testifying at a matter where Midland is

Page 65

1 M. SELIP  
 2 the plaintiff in that action.  
 3 **BY MR. SALTZMAN:**  
 4 Q. And who pays for the Midland  
 5 employee to come out to New York -- well,  
 6 strike that.  
 7 Do these people from Midland, do  
 8 they reside in New York?  
 9 **A. I don't know.**  
 10 Q. So do you know if they come from  
 11 out of state?  
 12 **A. No, I don't know.**  
 13 Q. You don't know one way or the  
 14 other?  
 15 **A. No.**  
 16 Q. For any of them?  
 17 **A. No.**  
 18 Q. Do you know who pays for the  
 19 Midland employees to travel to the these  
 20 dispositive hearings?  
 21 **A. No.**  
 22 Q. Would that be something  
 23 Mr. Slamowitz would know?  
 24 **A. No.**  
 25 Q. Who would know?

Page 66

1 M. SELIP  
 2 **A. Midland.**  
 3 Q. Well, does anybody in your firm  
 4 know who's paying for them?  
 5 **A. I don't see why they would, no.**  
 6 Q. Why not?  
 7 **A. Because we're not paying them.**  
 8 Q. So I meant travel expenses. The  
 9 same answer?  
 10 **A. The same answer, yes.**  
 11 Q. Take a look at MCM 0841 of Selip 3,  
 12 please. And take a look at Section 2.3.1,  
 13 Notice of Disputes and Claims. "The parties to  
 14 this agreement recognize that from time to  
 15 time, a debtor may dispute matters relating to  
 16 an account based on fraud, (each" and then  
 17 parens "(each, a 'Dispute')" so for purposes  
 18 of this agreement "dispute" is defined as  
 19 fraud; is that right?  
 20 **MR. FRANCOEUR:** Objection to the  
 21 form.  
 22 May I have the last part of that  
 23 question read back.  
 24 **THE COURT REPORTER:** Sure.  
 25

Page 67

1 M. SELIP  
 2 (The record was read as follows:  
 3 Q ...so for purposes of this  
 4 agreement, "dispute" is defined as  
 5 fraud; is that right?)  
 6 **MR. FRANCOEUR:** That's not what the  
 7 document says.  
 8 **THE WITNESS:** My answer is the  
 9 document speaks for itself. I'm not the  
 10 one who wrote the document. I don't know  
 11 what the writer intended when he or she  
 12 wrote this.  
 13 **BY MR. SALTZMAN:**  
 14 Q. Well, your company is a party to  
 15 the document, right?  
 16 **A. Yes.**  
 17 Q. So somebody -- you're a partner,  
 18 right?  
 19 **A. Yes.**  
 20 Q. And this is a contract with your  
 21 firm of which you're a partner, right?  
 22 **A. Correct.**  
 23 Q. And do you understand what this  
 24 sentence means?  
 25 **MR. FRANCOEUR:** Objection to the

Page 68

1 M. SELIP  
 2 form.  
 3 **THE WITNESS:** I understand what is  
 4 written, other than what is in  
 5 parentheses.  
 6 **BY MR. SALTZMAN:**  
 7 Q. What do you understand?  
 8 **A. That a consumer may dispute a**  
 9 **matter relating to an account based on fraud.**  
 10 Q. Okay. Now, if that happens, what  
 11 action does C&S take?  
 12 **A. We code our file that the consumer**  
 13 **is alleging fraud. We send to the consumer a**  
 14 **certificate of fraud along with a letter asking**  
 15 **for documents to prove the fraud in connection**  
 16 **with New York State's ID theft statute, and**  
 17 **then we report the fraud to Midland.**  
 18 Q. Is the account closed at that  
 19 point?  
 20 **A. No.**  
 21 Q. It remains open?  
 22 **A. Correct.**  
 23 Q. And does C&S await instructions  
 24 from Midland in connection with such coding?  
 25 **A. I don't recall if my firm does the**



Page 69

1                   **M. SELIP**  
 2   **investigation or if Midland does the**  
 3   **investigation.**  
 4   Q.   Now, you mentioned earlier, there's  
 5   a compliance department, right?  
 6   **A.   Correct.**  
 7   Q.   So what procedures does C&S have in  
 8   place in order to catch the potential fraud, if  
 9   any?  
 10           **MR. FRANCOEUR:** Objection. Form.  
 11   You can answer.  
 12           **THE WITNESS:** Our collection system  
 13   is set up so that if a consumer, while on  
 14   the phone with a representative, indicates  
 15   that the account was open fraudulently or  
 16   any of the charges were as a result of  
 17   fraud, the firm's representative will  
 18   indicate that in our system, which will  
 19   bring the account to the attention of a  
 20   compliance manager for -- compliance  
 21   attorney, excuse me, for further review.  
 22   If an allegation is made in  
 23   writing, which can be in an answer or in a  
 24   letter, those documents are immediately  
 25   reviewed by a compliance attorney in the

Page 70

1                   **M. SELIP**  
 2   first place; and that person will mark my  
 3   file as potential fraud.  
 4   **BY MR. SALTZMAN:**  
 5   Q.   And it is -- is it fraud -- strike  
 6   that.  
 7           If someone signs and opens up an  
 8   account for someone else without authorization,  
 9   is that something that your compliance  
 10   department would review as potential fraud?  
 11   **A.   If we're aware of it, yes.**  
 12   Q.   Okay. And if it's found that, in  
 13   fact, somebody else opened up the account  
 14   without authorization, would C&S still pursue  
 15   collection against the person who was  
 16   defrauded?  
 17   **A.   Generally speaking, no.**  
 18   Q.   Now, take a look at MCM 847, 848,  
 19   the bottom of 847, on to 848, Section 6.1.6,  
 20   talks about equitable relief. Then if you look  
 21   on to 848, the last line in the first paragraph  
 22   says, "The firm hereby expressly acknowledges  
 23   and agrees that the provisions of this  
 24   Section 6.1 are in addition to and independent  
 25   of any agreements or covenants contained in any

Page 71

1                   **M. SELIP**  
 2   other agreement between the firm and MCM."  
 3           Now, we talked earlier about  
 4   agreements between MCM and C&S; and so this  
 5   paragraph talks about any other agreements. To  
 6   your knowledge, are there other agreements  
 7   between C&S and MCM other than the one we're  
 8   looking at right now?  
 9   **A.   I really don't recall.**  
 10   Q.   There might be?  
 11   **A.   Yes.**  
 12   Q.   And what might those be?  
 13   **A.   The work standards document that I**  
 14   **referred to earlier. There could have been**  
 15   **amendments to this document that I'm not aware**  
 16   **of.**  
 17   Q.   Okay. So we discussed amendments  
 18   to this earlier.  
 19           **MR. SALTZMAN:** And we would call  
 20   for production of any amendments to the  
 21   agreement.  
 22           (Whereupon, Request No. 5,  
 23   Amendments to the Midland Funding, LLC,  
 24   manual requested in Request No. 2, was  
 25   made.)

Page 72

1                   **M. SELIP**  
 2   **BY MR. SALTZMAN:**  
 3   Q.   Are there drafts of these  
 4   amendments?  
 5           If there are amendments, I would  
 6   image there are drafts. Are there?  
 7   **A.   I don't know.**  
 8           **MR. SALTZMAN:** Well, we would call  
 9   for drafts of any of these amended  
 10   agreements, drafts of this agreement, and  
 11   any e-mails in connection thereof.  
 12           **MR. FRANCOEUR:** We will take it  
 13   under advisement.  
 14           (Whereupon, Request No. 6, Drafts  
 15   of amendments to the manual, drafts to the  
 16   agreement, and any e-mail in connection  
 17   with either, was made.)  
 18   **BY MR. SALTZMAN:**  
 19   Q.   Now, also you mentioned -- we are  
 20   talking about agreements, and you mentioned  
 21   manual, right?  
 22   **A.   Yes.**  
 23   Q.   So is the manual an agreement? In  
 24   other words, is that a signed document; or is  
 25   that just something that's provided by MCM to



Page 73

1 M. SELIP  
 2 C&S?  
 3 **A. That's one of the things I don't**  
 4 **recall. I don't remember if there was a**  
 5 **document that somebody in my firm may have**  
 6 **signed stating that it agrees to whatever with**  
 7 **regard to that document.**  
 8 Q. Okay. So we would call for the  
 9 production of that also. If there were signed  
 10 documents and if there's back-and-forth in  
 11 connection with any of these documents, we  
 12 would request any of the communications between  
 13 C&S and Midland in connection with manual,  
 14 agreements.  
 15 (Whereupon, Request No. 7, Signed  
 16 agreement documents and communications  
 17 between Cohen & Slamowitz and Midland  
 18 Funding, LLC in connection with the manual  
 19 and/or agreements, was made.)  
 20 (Whereupon, Request No. 8,  
 21 Notification and production of other  
 22 agreements, was made.)  
 23 **MR. SALTZMAN:** And if there are  
 24 other agreements, we would request that we  
 25 be notified of that and that there's

Page 74

1 M. SELIP  
 2 production?  
 3 **MR. FRANCOEUR:** We'll take it under  
 4 advisement.  
 5 **BY MR. SALTZMAN:**  
 6 Q. So let's move along. Let's look at  
 7 page MCM 852, Exhibit C, fee schedule.  
 8 Do you see where it says "gross  
 9 collection target"?  
 10 **A. Yes.**  
 11 Q. What does that mean?  
 12 **A. I have no idea.**  
 13 Q. This is a fee schedule, right?  
 14 That's what it says.  
 15 **A. The document speaks for itself.**  
 16 Q. It's a fee schedule, right? And is  
 17 your understanding that this determines what  
 18 your firm, at least partly determines, what  
 19 your firm's getting paid by Midland?  
 20 **MR. FRANCOEUR:** Objection.  
 21 **THE WITNESS:** It's my understanding  
 22 that this document has been superseded by  
 23 another document because the language here  
 24 is not my understanding of the current fee  
 25 schedule between my firm and Midland.

Page 75

1 M. SELIP  
 2 So I know you've asked for  
 3 additional documents. I'm not sure if  
 4 that would be one of the documents that we  
 5 will look for.  
 6 **MR. SALTZMAN:** Okay. So we're  
 7 going to reserve the right to call back  
 8 Mr. Selip, okay, because we don't have,  
 9 apparently, the latest document, not  
 10 produced by MCM and not produced by C&S.  
 11 So we're reserving that right.  
 12 **MR. FRANK:** This came up during the  
 13 Midland 30(b)(6), didn't it, Andrew.  
 14 **MR. SCHWARTZ:** Yes, yes, it did.  
 15 **MR. FRANK:** That was about a month  
 16 ago.  
 17 **MR. SCHWARTZ:** Yes.  
 18 **MR. FRANCOEUR:** Why are you  
 19 reserving the right? Why wasn't this  
 20 resolved before Mr. Selip showed up? He's  
 21 not coming back.  
 22 **MR. SALTZMAN:** Well, we're  
 23 reserving the right.  
 24 **MR. FRANCOEUR:** You can do whatever  
 25 you want.

Page 76

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. Now, this -- when was the last  
 4 document -- when was the last -- when was the  
 5 fee scheduled last revised?  
 6 **A. I don't remember.**  
 7 Q. Do you have any understanding --  
 8 well, do you have any understanding of what the  
 9 gross collection target means at all?  
 10 **A. No, I don't.**  
 11 **MR. SALTZMAN:** I just also want to  
 12 state for the record that -- strike that.  
 13 **BY MR. SALTZMAN:**  
 14 Q. C&S is in possession of the latest  
 15 fee schedule; is that right?  
 16 **MR. FRANCOEUR:** Objection. You can  
 17 answer.  
 18 **THE WITNESS:** I would think so.  
 19 **MR. SALTZMAN:** Okay. Just for the  
 20 record, 30(b)(6) deposition notice the  
 21 Schedule of Topics is communications  
 22 between you -- No. 15, "Communications  
 23 between you and any defendant in the  
 24 above-captioned litigation concerning the  
 25 collection of consumer debt acquired by

Page 77

1 M. SELIP  
 2 the Midland defendants."  
 3 Our reading of it is it includes  
 4 these kind of documents, and they were not  
 5 produced by C&S. So again, you can say  
 6 what you want. We're reserving the right  
 7 to call him back. And if we have to go to  
 8 court to do it, we'll do it. We can  
 9 discuss it at another time. I don't want  
 10 to waste your time or his.  
 11 **MR. FRANCOEUR:** Well, you're  
 12 already wasting everybody's time with  
 13 making for the record. So let me just  
 14 respond for the record.  
 15 Apparently, this issue has come up  
 16 over a month ago. You didn't take any  
 17 action to make sure you had the documents.  
 18 You waived any rights that you had. And  
 19 he's not coming back.  
 20 So I suggest you use today to the  
 21 full extent because he's not coming back.  
 22 **MR. SALTZMAN:** We'll see.  
 23 **MR. FRANK:** It wasn't clear that  
 24 you -- he failed to comply today.  
 25 **MR. FRANCOEUR:** We didn't fail to

Page 78

1 M. SELIP  
 2 comply with anything. We received the  
 3 30(b)(6) notice a couple of days ago, but  
 4 you should have made sure you had your  
 5 documents before he wasted his time coming  
 6 to New York City.  
 7 **BY MR. SALTZMAN:**  
 8 Q. Okay. Take a look at page MCM855.  
 9 **MR. SCHWARTZ:** I'm sorry, what  
 10 number?  
 11 **MR. SALTZMAN:** 855.  
 12 **BY MR. SALTZMAN:**  
 13 Q. Do you see the chart, Exhibit B?  
 14 **A. Yes.**  
 15 Q. Does the latest version of --  
 16 strike that.  
 17 Do you see where it says on the  
 18 left side towards the bottom "Arrange  
 19 full-balance payment plans"?  
 20 **A. Yes.**  
 21 Q. Do you have any understanding of  
 22 what that means?  
 23 **A. I'm not really sure what it's**  
 24 **referring to.**  
 25 Q. What about below that, "Arranged

Page 79

1 M. SELIP  
 2 settlement plans"?  
 3 **A. Those three words taken alone do**  
 4 **not tell me what's intended here.**  
 5 Q. Okay. And then the one we just  
 6 discussed "arrange full-balance plans" you said  
 7 you're not really sure. What do you think it  
 8 means?  
 9 **A. It's my understanding that this has**  
 10 **to do with the terms -- excuse me, the**  
 11 **repayment terms that my firm was authorized to**  
 12 **accept when a consumer was agreeing to pay the**  
 13 **full balance owed to Midland.**  
 14 Q. So that's a business instruction,  
 15 would you say, as opposed to a legal  
 16 instruction?  
 17 **MR. FRANCOEUR:** Objection. You can  
 18 answer.  
 19 **MR. SCHWARTZ:** I'm going to assert  
 20 a privilege objection. I mean, you can  
 21 answer in general terms; but it seems  
 22 clear to me that you've got a client and  
 23 attorney involved in the communication  
 24 specific to the attorneys. But if you can  
 25 answer, go ahead.

Page 80

1 M. SELIP  
 2 **THE WITNESS:** Right. To me, this  
 3 is my client telling me what terms under  
 4 which I can accept payments from a  
 5 consumer when that consumer is paying full  
 6 balance owed.  
 7 **BY MR. SALTZMAN:**  
 8 Q. Let's go to 858. Do you see the  
 9 top row? It says, "pre-suit expectations."  
 10 **A. Yes.**  
 11 Q. What does that mean to you?  
 12 **A. I'm really not sure.**  
 13 Q. Whose expectations do you think are  
 14 being discussed there?  
 15 **A. Midland's expectations of its --**  
 16 **well, in this case of my law firm.**  
 17 Q. And "post-suit expectations," what  
 18 does that mean? Is that also Midland's  
 19 expectations?  
 20 **A. That appears to be what it is**  
 21 **saying.**  
 22 Q. What does "post-suit" mean?  
 23 **A. I take post-suit to mean after a**  
 24 **lawsuit has been filed with the court.**  
 25 Q. And post-judgment?

Page 81

1 M. SELIP

2 **A. That would refer to expectations**

3 **once judgment has been entered by the Court.**

4 Q. And without telling me the details,

5 do you know what it means for Midland to have

6 pre-suit expectations for counterclaims or

7 appeals?

8 **MR. FRANCOEUR:** Objection.

9 **THE WITNESS:** No, I don't.

10 **BY MR. SALTZMAN:**

11 Q. And the same question for post-suit

12 expectations?

13 **A. It's too broad. I really can't,**

14 **without guessing, answer that question.**

15 **MR. FRANCOEUR:** Don't guess.

16 **THE WITNESS:** Which I'm not going

17 to do.

18 **BY MR. SALTZMAN:**

19 Q. Did you ever hear of something

20 called the MCM Training Manual?

21 **A. Not specifically.**

22 Q. Generally?

23 **A. I'm not sure.**

24 Q. You've heard the term?

25 **A. I'm not sure.**

Page 82

1 M. SELIP

2 Q. Did you ever hear of something

3 called Midland Third-party Management Policy?

4 **A. That title does not ring a bell.**

5 Q. We discussed manuals a little

6 earlier. Does C&S have any input into

7 Midland's manual, the one that we discussed

8 this morning?

9 **A. I don't know what Midland uses or**

10 **does to create its manual.**

11 Q. As far as you know, then, is it

12 fair to infer from your answer that, as far as

13 you know, C&S is not involved with drafting of

14 the manual?

15 **MR. SCHWARTZ:** I will put an

16 objection on the record. I think we're

17 getting confused as to the manuals.

18 **THE WITNESS:** I don't know.

19 **BY MR. SALTZMAN:**

20 Q. Now, earlier you testified that C&S

21 has an interface with Midland and its an

22 electronic system, correct?

23 **A. The interface is an electronic**

24 **interface.**

25 Q. Right. And the system on C&S's

Page 83

1 M. SELIP

2 side, is that electronic also? It's a computer

3 system?

4 **A. Yes.**

5 Q. Okay. What other computer systems

6 does C&S utilize in its debt collection duties?

7 **A. What do you mean by "computer**

8 **systems"?**

9 Q. Systems to help run the business.

10 **A. We have a network of computers**

11 **hooked up to each other that all run software**

12 **programs that allow us to represent our**

13 **clients.**

14 Q. What software programs do you

15 utilize?

16 **A. We utilize one called CLS. We have**

17 **written a proprietary program that we refer to**

18 **as Phoenix. We use WordPerfect, Word, Excel,**

19 **Microsoft suite of products. We use -- there**

20 **are some accounting programs that we use. I**

21 **don't recall the name of them right now.**

22 Q. Are those proprietary?

23 **A. No. QuickBooks may be one. There**

24 **may be other interfaces that we use. I don't**

25 **know if they would be considered computer**

Page 84

1 M. SELIP

2 **programs, though.**

3 Q. Let's start with the CLS. What is

4 that?

5 **A. It stands for commercial legal**

6 **software.**

7 Q. And it's not proprietary?

8 **A. It's not proprietary.**

9 Q. What's that system do?

10 **A. It's a database that allows us to**

11 **store data. It allows us to communicate with**

12 **our clients by creating maintenance files, just**

13 **generally, files that we would then send to our**

14 **clients. It allows us to receive electronic**

15 **files from our clients. It assists in certain**

16 **document creation. It has a program that**

17 **assists us in posting payments and costs to**

18 **keep track of a consumer's balance, among other**

19 **things.**

20 Q. You say that it allows C&S to

21 receive electronic files from clients. Is it

22 utilized to receive electronic files from

23 Midland?

24 **A. Yes.**

25 Q. What type of electronic files are

Page 85

1 M. SELIP  
 2 received by Midland -- from Midland through  
 3 CLS?  
 4 **A. It's files that contain notes from**  
 5 **Midland with regard to the files placed with**  
 6 **us.**  
 7 Q. What do you mean by "notes"?  
 8 **A. By way of example, if a consumer**  
 9 **were to make a payment to Midland, we would get**  
 10 **a code indicating that a payment was made. So**  
 11 **then we can adjust our file.**  
 12 **We would also get placements from**  
 13 **Midland via this mechanism.**  
 14 Q. You heard of -- have you heard of  
 15 the YGC system?  
 16 **A. I don't know if it would be called**  
 17 **a system; but yes, I am familiar with it. It**  
 18 **is a recognized format for the transmission of**  
 19 **data.**  
 20 Q. And does CLS interface with YGC?  
 21 **A. Generally speaking, yes. It would**  
 22 **allows us to take a file utilizing the YGC**  
 23 **standard and read it into your our collection**  
 24 **system.**  
 25 Q. So CLS is another interface with --

Page 86

1 M. SELIP  
 2 well, we didn't say this, but YGC is used by  
 3 Midland?  
 4 **A. Yes, it is.**  
 5 Q. So CLS is another interface with  
 6 Midland's systems?  
 7 **A. No.**  
 8 **MR. FRANCOEUR: Objection.**  
 9 **BY MR. SALTZMAN:**  
 10 Q. No. Go ahead. Why don't you  
 11 explain if I am mistaken.  
 12 **A. CLS is a file management program.**  
 13 **It will create a file, but it doesn't**  
 14 **communicate with Midland. We would send the**  
 15 **file created by CLS in the YGC format to**  
 16 **Midland.**  
 17 Q. What system is used to send the  
 18 messages to Midland?  
 19 **A. It's human intervention. We send**  
 20 **the files. I believe it goes to Midland's SFTP**  
 21 **site. It's not a system.**  
 22 Q. What's a Phoenix system?  
 23 **A. That's our internal system that**  
 24 **allows us to keep track of our files.**  
 25 Q. Is that the system we were

Page 87

1 M. SELIP  
 2 discussing this morning that interfaces with  
 3 Midland's system?  
 4 **MR. FRANCOEUR: Objection.**  
 5 **THE WITNESS: I think we're getting**  
 6 **confused here with interface.**  
 7 **BY MR. SALTZMAN:**  
 8 Q. Go ahead.  
 9 **A. There's no direct connection**  
 10 **between any of my systems and any of my**  
 11 **clients' systems.**  
 12 Q. Okay. So earlier then -- I'm  
 13 confused. So then earlier we discussed that  
 14 C&S has a system that has a table that  
 15 translates C&S's codes into Midland's codes,  
 16 right?  
 17 **A. We missed a step.**  
 18 Q. Go ahead.  
 19 **A. CLS along with Phoenix will create**  
 20 **a file that contains YGC codes. We will then**  
 21 **send that file to Midland.**  
 22 Q. And but YGC codes are Midland  
 23 codes?  
 24 **A. I can't speak to that.**  
 25 Q. Okay. But are YGC codes C&S codes?

Page 88

1 M. SELIP  
 2 **A. No. They are YGC codes.**  
 3 Q. Okay. So is there some C&S code  
 4 that corresponds to YGC code?  
 5 **A. Yes.**  
 6 Q. Which one of these systems, if any,  
 7 of them contains that table that has the  
 8 corresponding codes?  
 9 **A. Both CLS and Phoenix would be able**  
 10 **to capture a list of our codes and the**  
 11 **corresponding YGC codes.**  
 12 Q. In what instances would CLS be used  
 13 as opposed to Phoenix?  
 14 **A. We use CLS to create the base file**  
 15 **that we would send to Midland. We use Phoenix**  
 16 **to ensure that the data in the base file is**  
 17 **accurate and in the right format before we send**  
 18 **it to Midland.**  
 19 Q. What is the data that is created in  
 20 that file generally?  
 21 **A. What is it -- could you --**  
 22 Q. Well, you mentioned that -- well,  
 23 you mentioned that CLS creates a file with  
 24 data, correct?  
 25 **A. Yes.**



Page 89

1 **M. SELIP**

2 Q. What's that file with data composed

3 of?

4 **A. It's composed of records, one**

5 **record for each account that's being sent on**

6 **that day with YGC codes, which may include**

7 **subcodes. It's all coding, YGC coding. I'm**

8 **not aware of anything else that would be**

9 **contained in that file.**

10 Q. So just so I'm clear, there's a

11 record that identifies the account; and then

12 there would be a series of YGC codes, and

13 that's what's transmitted to Midland?

14 **A. A field. It's a field that has**

15 **Midland's code. So that's how Midland system**

16 **knows what file the codes are referring to.**

17 Q. And how is it physically

18 transmitted to Midland? Is it sent through

19 Phoenix code? Does somebody at the end of the

20 day push a button? How does that go?

21 **A. Manually. Somebody in my office**

22 **will create the file by running a program, and**

23 **then that person will send the file to**

24 **Midland's designated site.**

25 Q. Via e-mail?

Page 90

1 **M. SELIP**

2 **A. No, no. I think it's SFTP**

3 **whatever.**

4 Q. Okay. All right. So what is

5 Phoenix's purpose?

6 **A. It's many. In our minds it does a**

7 **superior job of allowing us to keep track of**

8 **placements. It's also the a system that's used**

9 **by the account representatives when**

10 **communicating with consumers. It's used for**

11 **the creation of some documents. It stores all**

12 **of our data as well as documents. It stores**

13 **financial information. Generally, it's similar**

14 **to CLS, but it's just a different program.**

15 Q. And when we were discussing these

16 different programs, you also mentioned there

17 might be other interfaces besides these two.

18 What are those other interfaces?

19 **A. I'm not sure of all of them. I'm**

20 **thinking of Experian. We obtain information**

21 **from Experian, so there is an interface between**

22 **my office and Experian.**

23 **We also have other clients with**

24 **their own systems. So we would have interfaces**

25 **with those other clients as well.**

Page 91

1 **M. SELIP**

2 Q. And the interfaces with the other

3 clients, do you have the same kind of

4 arrangement internally and then you translate

5 codes for the other clients?

6 **A. Typically, yes.**

7 **MR. FRANCOEUR:** I'm going to

8 object.

9 **BY MR. SALTZMAN:**

10 Q. Do you know who at Midland decides

11 which accounts are given to C&S for collection?

12 **A. No, I don't.**

13 Q. Do you know how they decide?

14 **A. I do not.**

15 Q. How does Midland place the accounts

16 with C&S? In other words, are they given

17 periodically, let's say, every three months in

18 groups of 500; or is it random? How does that

19 work?

20 **A. I need to backtrack. When we send**

21 **and receive files to and from Midland, it's not**

22 **Midland's SFTP site. It's YGC's site that we**

23 **use. So I apologize about skipping that step.**

24 **So YGC is not only a standard**

25 **format with codes, but they are also an entity**

Page 92

1 **M. SELIP**

2 **that will be the middleman for the receiving**

3 **and sending of records.**

4 **So back to your question, do I know**

5 **how they do it? We get files from them, if**

6 **they have any files to place with us, I believe**

7 **it's on a weekly basis; but there's no -- I do**

8 **not have any -- sorry.**

9 **MR. SCHWARTZ:** Beyond that, I'm

10 going to object as privileged.

11 **BY MR. SALTZMAN:**

12 Q. And is there a particular number

13 that they send every week?

14 **A. No.**

15 Q. It could be one? It could be ten?

16 **A. Yes.**

17 Q. How do they physically send those?

18 **A. I don't know what they're doing on**

19 **their end.**

20 Q. How do you receive them?

21 **A. We log on to YGC's site, and we see**

22 **their files waiting for us; download those**

23 **files.**

24 Q. Do those files come with documents?

25 **A. Come with documents?**

Page 93

1 **M. SELIP**

2 Q. Well, when you receive a new

3 account, what physically is received by

4 Midland -- I'm sorry, by C&S?

5 **A. We receive an electronic file of**

6 **data from YGC.**

7 Q. What is the data?

8 **A. What is the data?**

9 Q. You said that you receive

10 electronic files of data. I'm asking what is

11 the data?

12 **A. Information relating to that**

13 **specific account.**

14 Q. What type of information?

15 **A. Name and address, consumers social,**

16 **account opened date, charge-off date,**

17 **charge-off amount, last pay date, last pay**

18 **amount, certain notes about what happens with**

19 **that account while it was in Midland's**

20 **possession, original creditor name, original**

21 **creditor account number.**

22 **If there are any intermediate**

23 **account owners, then we would get there**

24 **information as well, meaning their name, the**

25 **date of sale, the date of their purchase. I'm**

Page 94

1 **M. SELIP**

2 **sure there are some things that I'm not**

3 **recalling right now.**

4 Q. Are any documents related to the

5 new account attached to the file you receive

6 through YGC?

7 **A. Attached? No.**

8 Q. Do you receive any documents

9 related to new accounts?

10 **A. Yes.**

11 Q. What documents do you receive?

12 **A. It will vary depending upon the**

13 **account, but it typically includes chain of**

14 **title, bill of sale, account statements. At**

15 **times it could include copies of payments from**

16 **the consumer, terms and conditions or card**

17 **number agreement, whatever you want to refer to**

18 **it as. Did I say bill of sale? If I didn't,**

19 **bill of sale.**

20 Q. Are those items always provided?

21 **A. Not every one of those. There may**

22 **not always be a copy of payment available to us**

23 **at the time of placement. But if we need it**

24 **for whatever reason, we then ask for it; and**

25 **then we get it if it's available.**

Page 95

1 **M. SELIP**

2 Q. And if it's not available, you

3 can't get it?

4 **A. We can't get it.**

5 Q. Okay. If those documents aren't

6 sent through the YGC [sic] system, how does C&S

7 access those documents?

8 **A. They are not available -- they are**

9 **not sent via YGC. YGC is used only to place**

10 **electronic data. Midland maintains a portal on**

11 **which it places all of the media that it has**

12 **available at that time.**

13 **So when we get a new placement, we**

14 **log on to their media portal or whatever name**

15 **of the portal and we download the information**

16 **once we get the electronic file from YGC.**

17 Q. And do you save -- does C&S

18 download the information? You used the word

19 "information." Do you mean documents?

20 **A. Documents, yes.**

21 Q. Okay. And then is it saved on

22 C&S's system?

23 **A. Yes, it is.**

24 Q. Once C&S gets the account, how does

25 your firm allocate responsibility for that

Page 96

1 **M. SELIP**

2 account among its staff?

3 **A. When it first comes in, it's**

4 **reviewed by the data processing folks to ensure**

5 **that it's entered into the system properly. If**

6 **any information is missing, those folks would**

7 **be the first ones to reach out to the client to**

8 **ask for anything that is missing.**

9 **After the data processing folks**

10 **review it and approve, it then goes to an**

11 **attorney. It's not assigned to a particular**

12 **attorney, but it's made available to all the**

13 **partners and several other attorneys who will**

14 **then go into the file, review the file to**

15 **ensure that it's something that we should be**

16 **accepting and handling on behalf of a client.**

17 Q. How do you make the determination

18 whether it's something that you should be

19 accepting?

20 **A. Based on a review of everything**

21 **that we get in along with the documents that**

22 **are associated with the file. We'll review it.**

23 **And if it -- if in our opinion everything is**

24 **there that we need in order to litigate an**

25 **account, we will accept it.**



Page 97

1 **M. SELIP**

2 Q. Under what conditions would you not

3 accept it?

4 A. If I'm missing an address, if the

5 balance doesn't seem right, by that, I mean

6 since I'm giving a charge-off amount, if the

7 balance is, for example, higher than the

8 charge-off amount, knowing that the client

9 doesn't charge anything post-charge-off, I

10 would question it or one of the attorneys would

11 question it; and we would seek additional

12 documentation to ensure that the balance is the

13 correct balance. We would look again at the

14 last payment information pre- or

15 post-charge-off to make sure that the balance

16 is correct. Things of that nature.

17 Q. Where does C&S obtain the last

18 payment information from?

19 A. It's provided to us in the new

20 claim file we receive from a client.

21 Q. In a document?

22 A. It's electronic.

23 Q. So it's through the YGC system?

24 A. Since we're talking Midland, yes,

25 it's through YGC.

Page 98

1 **M. SELIP**

2 Q. Well, it's through the YGC system.

3 So it's just electronic -- it's a number that's

4 provided to you?

5 A. In the YGC file, it's data. And

6 then we will get media from the Midland's media

7 portal, and that may include statements from

8 the original creditor. Some statements may

9 reflect the last payment date.

10 Q. And sometimes they don't?

11 A. That's correct. There isn't always

12 a payment.

13 Q. Do you know on average for C&S how

14 much it costs to prosecute a case against a

15 debtor?

16 **MR. FRANCOEUR:** Objection.

17 **THE WITNESS:** We don't prosecute

18 debtors.

19 **BY MR. SALTZMAN:**

20 Q. To pursue a claim -- let me

21 rephrase it.

22 Do you know how much it costs on

23 average for C&S to pursue a claim against a

24 debtor?

25 **MR. FRANCOEUR:** Objection to form.

Page 99

1 **M. SELIP**

2 **THE WITNESS:** I can't answer that

3 question.

4 **BY MR. SALTZMAN:**

5 Q. Do you know?

6 A. No.

7 Q. Does the firm track the costs?

8 A. Not that I'm aware of, no.

9 Q. Your firm doesn't track the costs

10 of pursuing claims against debtors?

11 A. Not that I'm aware of.

12 Q. Do you know how much fees are for

13 process service?

14 A. Not offhand.

15 Q. But within the firm, there's some

16 institutional knowledge of that?

17 A. Of course, yes.

18 Q. Who would be the person to ask

19 about that?

20 A. The people in my accounting

21 department who would post the bills. The

22 people in the clerical department whose

23 responsibility includes reviewing the bills

24 along with the files.

25 Q. And would the answer be the same

Page 100

1 **M. SELIP**

2 for filing fees, I would have to go to the same

3 people?

4 A. No. I know the filings fees.

5 Q. Oh, what are the filing fees?

6 A. You're talking about filing a state

7 court action?

8 Q. Yes.

9 A. In regard to a matter we're

10 handling for Midland against the consumer would

11 be \$170 in Supreme Court and \$45 in district,

12 city, and civil.

13 Q. Are there any other costs involved

14 in pursuing legal action against a debtor other

15 than process serving and filing fees?

16 A. Whose costs?

17 Q. C&S?

18 A. Well, we have staff that we pay.

19 So we have rent. We have electric. Again,

20 it's a very general question.

21 Q. Go ahead.

22 A. So we have all the expenses that

23 any law firm typically has in running a

24 business.

25 Q. Anything specific to pursuing the

Page 101

1 M. SELIP  
 2 claim other than overhead?  
 3 **A. Are you referring to disbursements**  
 4 **incurred in connection with filing a lawsuit?**  
 5 Q. Yes.  
 6 **A. No. Then there are none.**  
 7 Q. There's travel also, right, if  
 8 you're going up to Buffalo, like we said this  
 9 morning? You have travel costs?  
 10 **A. Right. Any costs that are**  
 11 **typically incurred by a law firm is not going**  
 12 **to be any different because of the type of law**  
 13 **we practice.**  
 14 Q. Have you ever heard of the term  
 15 "account stated"?  
 16 **A. Yes.**  
 17 Q. What does that mean?  
 18 **MR. FRANCOEUR:** Objection. Calls  
 19 for a legal conclusion.  
 20 **BY MR. SALTZMAN:**  
 21 Q. What's your understanding of what  
 22 that means?  
 23 **A. It's a cause of action recognized**  
 24 **in New York.**  
 25 Q. What type of cause of action?

Page 102

1 M. SELIP  
 2 **A. It's a civil cause of action.**  
 3 Q. When C&S makes its decision to file  
 4 for default judgment, how does the firm go  
 5 about making that decision?  
 6 **A. We utilize our Phoenix system to**  
 7 **identify accounts that have been sued, where**  
 8 **the consumer has been served, where the 3215**  
 9 **Notice has been sent and more than 25 days has**  
 10 **passed and there's no answer; it's not paying**  
 11 **or performing; there's no compliance issues**  
 12 **which I would broadly define as allegation of**  
 13 **fraud, dispute, paid prior, identity theft**  
 14 **which is part of fraud. If the account falls**  
 15 **into that category, then it's reviewed by a**  
 16 **clerk who will gather the documents necessary**  
 17 **to support the request for a judgment and give**  
 18 **it to an attorney for review and signature.**  
 19 Q. Do you know who Shane Teusch is?  
 20 **A. He's an employee of Midland.**  
 21 Q. Have you ever met him?  
 22 **A. Yes.**  
 23 Q. Under what circumstances have you  
 24 met him?  
 25 **A. I've met him in my office when he's**

Page 103

1 **M. SELIP**  
 2 **come to visit. I've met him in San Diego when**  
 3 **I've gone out to visit with Midland. I met him**  
 4 **in industry conferences over the years.**  
 5 Q. Do C&S personnel ever meet with him  
 6 as part of their job other than something like,  
 7 you know, seeing him at a trade conference?  
 8 Does C&S personnel interface with him?  
 9 **A. Yes.**  
 10 Q. In what capacity?  
 11 **A. If there's an account-related**  
 12 **question, a procedure-related question, we**  
 13 **would contact him for assistance; or**  
 14 **alternatively, if he has questions for us, he**  
 15 **would contact us.**  
 16 Q. What type of questions specifically  
 17 would you go to Mr. Teusch with?  
 18 **MR. SCHWARTZ:** I object  
 19 specifically as attorney/client, but  
 20 certainly in general.  
 21 **THE WITNESS:** Generally, it's the  
 22 same answer I gave. It's just a question  
 23 about procedure or how they would want an  
 24 account handled or if there's a question  
 25 about a specific account, we would

Page 104

1 M. SELIP  
 2 communicate with him.  
 3 **BY MR. SALTZMAN:**  
 4 Q. What's his job at Midland?  
 5 **A. I believe he is a manager, a firm**  
 6 **liaison manager. I'm guessing.**  
 7 **MR. FRANCOEUR:** Don't guess.  
 8 **THE WITNESS:** I shouldn't be  
 9 guessing. I'm not sure of his exact  
 10 title.  
 11 **BY MR. SALTZMAN:**  
 12 Q. What about Rita Melconian. Did you  
 13 ever hear of her?  
 14 **A. Yes.**  
 15 Q. Have you ever spoken to her?  
 16 **A. Yes.**  
 17 Q. Does C&S personnel ever meet with  
 18 her or speak with her?  
 19 **A. Yes.**  
 20 Q. In what context would they speak  
 21 with her?  
 22 **A. We would speak with Rita if we had**  
 23 **questions about Midland's procedures or**  
 24 **questions, perhaps, about specific accounts if**  
 25 **there was a need to. I would communicate with**

Page 105

1 **M. SELIP**  
 2 her regarding issues of state law, federal law.  
 3 Q. Is she an attorney?  
 4 A. Yes, she is.  
 5 Q. Is Shane Teusch an attorney?  
 6 A. No.  
 7 Q. Is he a paralegal?  
 8 MR. FRANCOEUR: Don't guess.  
 9 THE WITNESS: I don't know if he  
 10 has a paralegal certificate.  
 11 BY MR. SALTZMAN:  
 12 Q. Do you know who Mike Bender is?  
 13 A. Yes.  
 14 Q. Who is he?  
 15 A. I know he works for Midland.  
 16 Q. Do you know what he does for  
 17 Midland?  
 18 A. I'm not a hundred percent sure.  
 19 Q. Do C&S personnel ever meet with  
 20 him?  
 21 A. Yes.  
 22 Q. In what context?  
 23 A. General meetings with regard to the  
 24 industry, Midland's procedures, expectations,  
 25 conferences.

Page 106

1 **M. SELIP**  
 2 Q. When you say that they discuss with  
 3 Mike Bender expectations, you mean Midland's  
 4 expectations of C&S?  
 5 A. Yes.  
 6 Q. Does that include C&S's  
 7 performance, vis-a-vis collection of debt on  
 8 behalf of Midland?  
 9 A. You're talking about Mike Bender?  
 10 Q. Yes.  
 11 A. The answer's no.  
 12 Q. Is there someone who does that, who  
 13 keeps track of C&S's performance on behalf of  
 14 Midland?  
 15 MR. FRANCOEUR: Objection.  
 16 THE WITNESS: It's a Midland  
 17 question.  
 18 BY MR. SALTZMAN:  
 19 Q. Do you ever interface with anybody  
 20 at Midland regarding C&S's performance,  
 21 vis-a-vis collection on behalf of Midland?  
 22 A. Yes.  
 23 Q. With whom do you interface?  
 24 A. The personnel will vary. What time  
 25 period are we talking about?

Page 107

1 **M. SELIP**  
 2 Q. Let's start in 2006?  
 3 A. I don't remember.  
 4 Q. What do you remember most recently?  
 5 A. Most recently the person with whom  
 6 we've been speaking would be Shane, a gentleman  
 7 by the name of Sasha whose last name I can't  
 8 recall or spell.  
 9 I've spoken with Danielle  
 10 Wohlfordth, a couple of other names that I  
 11 can't recall right now.  
 12 Q. Shane, Sasha, and Danielle, those  
 13 are the most recent?  
 14 A. Yes.  
 15 Q. Do you remember anybody prior to  
 16 them?  
 17 A. Let me fill in, Joe Gugal,  
 18 G-U-G-A-L, I think.  
 19 Q. And those four people, they are the  
 20 most recent people?  
 21 A. Yes.  
 22 Q. You continue to have discussions  
 23 with them about performance?  
 24 A. Yes.  
 25 Q. Anybody before them that you

Page 108

1 **M. SELIP**  
 2 discussed performance?  
 3 A. Yes, but I can't recall names right  
 4 now.  
 5 Q. Maybe you can get back to us.  
 6 And when you discuss with Shane  
 7 Teusch performance, what's the nature of the  
 8 discussion?  
 9 MR. FRANCOEUR: Objection.  
 10 MR. SCHWARTZ: Objection  
 11 attorney/client privilege. I'm going to  
 12 instruct you not to answer that.  
 13 MR. FRANCOEUR: I join in the  
 14 objection.  
 15 BY MR. SALTZMAN:  
 16 Q. When you discuss the performance of  
 17 C&S in regard to debt collection on behalf of  
 18 Midland with Mr. Teusch, what's the nature --  
 19 what do you discuss with him?  
 20 MR. SCHWARTZ: Again, objection.  
 21 Objection. Attorney/client privilege. If  
 22 you can do it generally, I suppose that  
 23 would be fine but nothing specific.  
 24 MR. FRANCOEUR: I join in the  
 25 objection.

Page 109

1 M. SELIP  
 2 **THE WITNESS:** We'll discuss money  
 3 that we collect on behalf of Midland.  
 4 We'll discuss legal aspects of the  
 5 business, discuss any challenges that we  
 6 may be having or needs that we have.  
 7 Nothing else to add at this point.  
 8 **BY MR. SALTZMAN:**  
 9 Q. And what about Sasha, is the answer  
 10 the same? Any discussions with Sasha?  
 11 **MR. SCHWARTZ:** Objection.  
 12 Attorney/client privilege. Go ahead.  
 13 **MR. FRANCOEUR:** I join.  
 14 **THE WITNESS:** My discussions with  
 15 Sasha are more data-related. My  
 16 understanding is that he is an analyst of  
 17 sorts.  
 18 **BY MR. SALTZMAN:**  
 19 Q. What do you mean by "data-related"?  
 20 **A. The general status of accounts**  
 21 **placed with my office.**  
 22 Q. What do you mean by "status"?  
 23 **A. The litigation status and the**  
 24 **collection status.**  
 25 Q. Of particular accounts?

Page 110

1 M. SELIP  
 2 **A. No. We discuss generalities.**  
 3 Q. What about Danielle Wohlfordth?  
 4 **A. My conversations with her are very**  
 5 **general as well, about the firm's performance,**  
 6 **for lack of a better word, in handling or**  
 7 **representing Midland.**  
 8 Q. And what about Joe Gugal?  
 9 **A. Joe is more of a person who can**  
 10 **assist us with regards to particular accounts**  
 11 **that if we need some additional information, if**  
 12 **we have questions as to what they want us to --**  
 13 **Midland would want us to do, in a specific**  
 14 **situation we would speak with Joe or Shane. It**  
 15 **would be similar.**  
 16 Q. Do you ever discuss with them their  
 17 satisfaction with C&S's performance?  
 18 **A. Yes.**  
 19 Q. And would that be with Shane?  
 20 **A. Yes.**  
 21 Q. With Joe?  
 22 **A. Not really.**  
 23 Q. Sasha?  
 24 **A. No.**  
 25 Q. Danielle?

Page 111

1 M. SELIP  
 2 **A. Yes.**  
 3 Q. Why with Danielle and Shane and not  
 4 the other two?  
 5 **MR. FRANCOEUR:** Objection.  
 6 **THE WITNESS:** That's the topics  
 7 they bring up to me. As why they bring  
 8 them up and not others, it's not for me to  
 9 know.  
 10 **BY MR. SALTZMAN:**  
 11 Q. It's not the other folks' purview;  
 12 is that your understanding?  
 13 **A. That's my understanding.**  
 14 Q. Do you know who Xenia Murphy is?  
 15 **A. Xenia.**  
 16 Q. Xenia.  
 17 **A. Yes.**  
 18 Q. And do you speak to her ever?  
 19 **A. On occasion, yes.**  
 20 Q. And do C&S personnel speak to her?  
 21 **A. I don't think so.**  
 22 Q. When you talk to her without  
 23 details, what do you discuss with her?  
 24 **MR. FRANCOEUR:** Objection.  
 25 **MR. SCHWARTZ:** Objection.

Page 112

1 M. SELIP  
 2 Attorney/client privileged. You can  
 3 answer it generally.  
 4 **THE WITNESS:** We don't really speak  
 5 specifics about the business. Our  
 6 discussions are more nonbusiness-related  
 7 at this point.  
 8 **BY MR. SALTZMAN:**  
 9 Q. Okay. When you say "at this  
 10 point," was there a point where they were  
 11 business-related?  
 12 **A. Yes, but not on behalf of Midland**  
 13 **that I can recall.**  
 14 Q. On behalf of whom?  
 15 **A. Xenia worked for another one of my**  
 16 **firm's clients.**  
 17 Q. Now, communications that you have  
 18 with Shane and Danielle are there ever  
 19 communications regarding C&S's performance via  
 20 e-mail?  
 21 **A. We do communicate via e-mail. I**  
 22 **don't recall right now if any of the e-mails**  
 23 **would have commented on performance.**  
 24 Q. Would they have commented on any of  
 25 the topics we discussed under the heading of



Page 113

1 M. SELIP  
 2 performance that you discuss with them?  
 3 **A. We discuss these things over the**  
 4 **phone.**  
 5 Q. Any e-mails?  
 6 **A. How are you defining performance?**  
 7 Q. Well, let's not use the word  
 8 performance and rather use the items that you  
 9 just said that you discuss with Shane and  
 10 Danielle.  
 11 You mentioned that you discussed a  
 12 few things in general terms. I'm talking about  
 13 those things.  
 14 **A. So I think with Shane, yes, there**  
 15 **have been times where the items I mentioned**  
 16 **earlier were the topics of e-mail**  
 17 **communications.**  
 18 **MR. SALTZMAN:** So we would call for  
 19 the production of those e-mail  
 20 communications.  
 21 **MR. FRANCOEUR:** Those are all going  
 22 to be privileged.  
 23 (Whereupon, Request No. 9,  
 24 Production of e-mail communications, was  
 25 made.)

Page 114

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. We discussed a little earlier,  
 4 briefly, we mentioned YGC, right?  
 5 **A. Yes.**  
 6 Q. Okay. Does C&S communicate on a  
 7 daily basis with MCM through YGC?  
 8 **A. I don't believe we do so on the**  
 9 **weekends.**  
 10 Q. On business days then?  
 11 **A. Yes.**  
 12 Q. And that --  
 13 **MR. FRANCOEUR:** Counsel, I need to  
 14 take a short bathroom break.  
 15 **MR. SALTZMAN:** Certainly.  
 16 **MR. FRANCOEUR:** You're okay?  
 17 **MR. SALTZMAN:** Yes.  
 18 (Whereupon, a short break was  
 19 taken.)  
 20 **BY MR. SALTZMAN:**  
 21 Q. Mr. Selip, once an action is  
 22 initiated against a debtor, if the debtor is  
 23 representing himself and serves discovery on  
 24 Midland, are there any particular steps that  
 25 your firm takes in response to that?

Page 115

1 M. SELIP  
 2 **A. It depends on the type of discovery**  
 3 **asked for.**  
 4 Q. Okay. So why don't you take us  
 5 through that if there are different types of  
 6 discovery, please.  
 7 **A. If it's a doc demand, we would put**  
 8 **it together with the documents that we have.**  
 9 **If we don't have documents, we would ask**  
 10 **Midland for the documents that we don't have.**  
 11 Q. And do you request it through the  
 12 YGC system or some other way if you request it  
 13 from Midland?  
 14 **A. It's through the YGC system, yes.**  
 15 Q. Go ahead.  
 16 **A. If time is of the essence, then we**  
 17 **will request it via e-mail. If it's documents**  
 18 **related to questions, we would prepare the**  
 19 **answer and send it to Midland for their review**  
 20 **and approval.**  
 21 Q. Anything else?  
 22 **A. No.**  
 23 Q. And what if the debtor interposes  
 24 an answer, is there something that C&S does in  
 25 that instance?

Page 116

1 M. SELIP  
 2 **MR. FRANCOEUR:** Object. Do you  
 3 understand the question?  
 4 **THE WITNESS:** It's too general of a  
 5 question.  
 6 **BY MR. SALTZMAN:**  
 7 Q. What don't you understand?  
 8 **A. If we get an answer, what do we do?**  
 9 **What do we do in regard to what?**  
 10 Q. Do you take any action if you get  
 11 an answer from a debtor?  
 12 **A. With regard to what?**  
 13 Q. With regard to the claim against  
 14 the debtor?  
 15 **MR. FRANCOEUR:** Counsel, I'm  
 16 confused by the question. Are you saying  
 17 after he gets an answer, do you try to get  
 18 an answer?  
 19 **MR. SALTZMAN:** No.  
 20 **BY MR. SALTZMAN:**  
 21 Q. After C&S gets an answer, they get  
 22 an answer, do you communicate to Midland in any  
 23 way?  
 24 **A. That's a different question. So**  
 25 **yes, we will let Midland know we received an**

Page 117

1 M. SELIP  
 2 answer.  
 3 Q. Do you do anything else?  
 4 A. **It's too general a question. We go**  
 5 **for lunch. We go to the bathroom.**  
 6 Q. Well, obviously, I'm not talking  
 7 about that?  
 8 A. **Tell me what it is you're talking**  
 9 **about.**  
 10 Q. So when you receive an answer, do  
 11 you analyze the answer?  
 12 A. **Yes.**  
 13 Q. Once you analyze the answer, do you  
 14 take any other action other than going to the  
 15 bathroom or going for lunch?  
 16 MR. FRANCOEUR: Objection.  
 17 THE WITNESS: With regard to what?  
 18 BY MR. SALTZMAN:  
 19 Q. With regard to that case?  
 20 A. **It depends on the circumstances**  
 21 **surrounding that case.**  
 22 Q. In what way does it depend on the  
 23 circumstances surrounding that case?  
 24 A. **It depends on what's in the answer.**  
 25 **It depends on whether they're allowed to speak**

Page 118

1 M. SELIP  
 2 **with the consumer, depends on whether it's set**  
 3 **down for a court date.**  
 4 Q. Whether your allowed to speak to  
 5 the consumer. Is that something that's  
 6 governed by the manual that's received from  
 7 Midland?  
 8 A. **It's governed by federal law.**  
 9 Q. And if you communicate that, if an  
 10 answer was served to Midland, do you then await  
 11 an instruction from Midland?  
 12 A. **No.**  
 13 Q. What do you do vis-a-vis Midland?  
 14 A. **What do we do vis-a-vis Midland?**  
 15 Q. Yes. When you notify Midland an  
 16 answer is served, do you wait for a response  
 17 from Midland at all?  
 18 A. **No, we don't.**  
 19 Q. You proceed with what we just  
 20 discussed; and depending on whether you can  
 21 communicate with the debtor, etcetera?  
 22 A. **We handle the case as lawyers would**  
 23 **handle any other case.**  
 24 Q. And the when you notify Midland  
 25 that an answer was served, do you do that

Page 119

1 M. SELIP  
 2 through a code also?  
 3 A. **Yes.**  
 4 Q. And if a counterclaim is served, do  
 5 you notify Midland?  
 6 A. **Yes.**  
 7 Q. Do you then wait for Midland to  
 8 instruct you on how to proceed?  
 9 A. **No.**  
 10 Q. Do you go to lunch or to the  
 11 bathroom?  
 12 MR. FRANCOEUR: Hold on. Don't  
 13 answer the question.  
 14 Counsel, you can't harass the  
 15 witness. We could derail the deposition.  
 16 We could get into a screaming match.  
 17 MR. SALTZMAN: I'll withdraw.  
 18 MR. FRANCOEUR: Thank you.  
 19 BY MR. SALTZMAN:  
 20 Q. When you get a counterclaim, what  
 21 do you do?  
 22 A. **Again, your question is too broad.**  
 23 Q. In connection with the case where  
 24 you receive a counterclaim, does C&S take any  
 25 action other than notifying MCM that you

Page 120

1 M. SELIP  
 2 received a counterclaim?  
 3 A. **We represent our client as we would**  
 4 **in any other matter.**  
 5 Q. Do you respond to the counterclaim?  
 6 A. **Yes, we do.**  
 7 Q. Does C&S have leeway to respond to  
 8 the counterclaim on their own, or do they have  
 9 to wait for any instructions from Midland; or  
 10 is there a discussion with Midland?  
 11 A. **I don't recall.**  
 12 Q. When was the last time you saw a  
 13 counterclaim served in one of these cases by a  
 14 debtor?  
 15 A. **I don't recall.**  
 16 Q. Was it recent?  
 17 (Telephone interruption.)  
 18 MR. FRANCOEUR: Do you want to  
 19 repeat your question.  
 20 BY MR. SALTZMAN:  
 21 Q. Was it recent?  
 22 A. **I haven't personally seen a**  
 23 **counterclaim in quite some time.**  
 24 Q. Does C&S maintain records -- I  
 25 think I might have asked you this. Does C&S



Page 121

1 M. SELIP  
 2 maintain records of the communications with  
 3 Midland through YGC?  
 4 **A. Yes.**  
 5 Q. Does it maintain those for seven  
 6 years?  
 7 **A. At least, yes.**  
 8 Q. Does C&S ever have contact with the  
 9 original creditors in connection with debt  
 10 collection for -- on behalf of Midland?  
 11 **MR. FRANCOEUR:** Objection. Asked  
 12 and answered. You can answer again.  
 13 **THE WITNESS:** On occasion.  
 14 **BY MR. SALTZMAN:**  
 15 Q. Under what circumstance would that  
 16 happen?  
 17 **A. There have been occasions where I**  
 18 **have attempted to assist Midland in connection**  
 19 **with the purchase of receivables. There have**  
 20 **also been some instances where we have**  
 21 **subpoenaed original creditors for records.**  
 22 Q. In instances where C&S has  
 23 subpoenaed the original creditors for records,  
 24 is that because the original creditors have  
 25 refused to produce records?

Page 122

1 M. SELIP  
 2 **A. I can't tell you what transpired**  
 3 **between the original creditor and Midland.**  
 4 Q. Well, has, in those instances, did  
 5 C&S contact the original creditors prior to  
 6 serving the subpoena in order to try to procure  
 7 those records that they were trying to get?  
 8 **A. Not that I recall.**  
 9 Q. So under what circumstance, would  
 10 C&S subpoena the original creditors for  
 11 records?  
 12 **A. The attorney who was handling that**  
 13 **particular matter felt that that was the**  
 14 **prudent course of action to take.**  
 15 Q. Because he couldn't get the  
 16 documents in another way?  
 17 **MR. FRANCOEUR:** Objection.  
 18 **THE WITNESS:** I don't know why he  
 19 felt that was the best thing to do, but  
 20 that was his course of action.  
 21 **BY MR. SALTZMAN:**  
 22 Q. Do you remember a specific instance  
 23 where this happened?  
 24 **A. No, I don't.**  
 25 Q. Does C&S often subpoena original

Page 123

1 M. SELIP  
 2 creditors for records?  
 3 **A. No.**  
 4 Q. Do they ever get original creditor  
 5 records without subpoena?  
 6 **A. Can you rephrase that question?**  
 7 Q. Sure. You said that sometimes C&S  
 8 subpoenas original creditors for records  
 9 because the attorney handling feels that that's  
 10 the best way to go about obtaining those  
 11 records, right?  
 12 **A. Yes.**  
 13 Q. Okay. Are there other ways of  
 14 obtaining those records rather than through  
 15 subpoena?  
 16 **A. Yes.**  
 17 Q. What are those ways?  
 18 **A. We can request those documents from**  
 19 **Midland.**  
 20 Q. Any other way?  
 21 **A. We can request information from the**  
 22 **defendant.**  
 23 Q. So if C&S doesn't have documents  
 24 that they need, they sometimes will rely on the  
 25 defendant for those documents?

Page 124

1 M. SELIP  
 2 **MR. FRANCOEUR:** Objection.  
 3 **THE WITNESS:** No.  
 4 **BY MR. SALTZMAN:**  
 5 Q. When would C&S request documents  
 6 from the defendant?  
 7 **A. In almost every matter.**  
 8 Q. There's always a document request  
 9 to the defendant?  
 10 **A. That's not what I said.**  
 11 Q. What did you say?  
 12 **A. I said -- excuse me.**  
 13 **THE WITNESS:** Could you, please,  
 14 read back my answer.  
 15 **THE COURT REPORTER:** Sure.  
 16 (The record was read as follows:  
 17 Answer: In almost every matter.)  
 18 **THE WITNESS:** That's my answer.  
 19 **BY MR. SALTZMAN:**  
 20 Q. What do you mean by "matter"?  
 21 **A. Litigation.**  
 22 Q. Against the debtor?  
 23 **A. Yes.**  
 24 Q. You always --  
 25 **A. We engage in discovery.**

Page 125

1 **M. SELIP**

2 Q. And you always -- well, I asked you

3 that, do you always have a document request to

4 defendant. You said no.

5 **MR. FRANCOEUR:** Objection. He said

6 in almost every matter.

7 **THE WITNESS:** You asked me in every

8 matter do I do it. I said no, because my

9 answer previously was in almost every

10 matter.

11 **BY MR. SALTZMAN:**

12 Q. In almost every matter you serve a

13 document request?

14 **A. That's correct.**

15 Q. And if you can't get the document

16 from the defendant or Midland, then do you try

17 to get it from the original creditor?

18 **A. What point in time?**

19 Q. Any point in time.

20 **A. So yes.**

21 Q. Are there ever requests made to the

22 original creditor other than through subpoena?

23 **A. Yes.**

24 Q. In what way would you request the

25 documents from the original creditor other than

Page 126

1 **M. SELIP**

2 through subpoena?

3 **A. Telephone or e-mail.**

4 Q. And who would make that request

5 from C&S?

6 **A. Me.**

7 Q. It wouldn't be somebody from one of

8 the -- from one of the departments we

9 discussed? It wouldn't be a clerk?

10 **A. No.**

11 Q. And why would it be you as opposed

12 to a clerk making the request?

13 **A. Because I have the contacts with**

14 **the original creditors to make that call.**

15 Q. Is it relatively rare that you have

16 to do that?

17 **A. Yes.**

18 Q. And if they are not responsive,

19 then is the subpoena the next step?

20 **A. Not necessarily.**

21 Q. What might transpire between your

22 contacting an original creditor and actually

23 subpoenaing the original creditor for the

24 documents C&S needs?

25 **A. We may decide we don't need the**

Page 127

1 **M. SELIP**

2 **documents. We may get the documents from**

3 **another source, or the case may be resolved.**

4 Q. So those are instances where C&S

5 determines that it needs additional documents

6 other than what it's received from Midland in

7 connection with collecting a particular debt,

8 correct?

9 **A. Yes.**

10 Q. And why would C&S need such

11 additional documents?

12 **A. It may depend on the answer or**

13 **perhaps a counterclaim interposed by the**

14 **consumer, defendant at that point.**

15 Q. Would those documents -- additional

16 documents -- and here I'm not limiting myself

17 to -- from the original creditor, but rather

18 even from Midland.

19 Would such additional documents be

20 needed for filing for default judgment against

21 a debtor?

22 **A. No.**

23 Q. Why not?

24 **A. Because the state of law in New**

25 **York wouldn't require it.**

Page 128

1 **M. SELIP**

2 Q. During what time period did the

3 State of New York law not require it?

4 **MR. FRANCOEUR:** Objection. It's

5 calling for a legal opinion. You can tell

6 him about your current practice.

7 **THE WITNESS:** I would refer to the

8 OCA and the recent rules.

9 **MR. SALTZMAN:** Can you read back

10 his prior answer?

11 (The record was read as follows:

12 Answer: Because the state of law

13 in New York wouldn't require it.)

14 **BY MR. SALTZMAN:**

15 Q. Did the state law change such that

16 it would not or would not be required at some

17 point during your tenure at C&S?

18 **A. What is "it"?**

19 Q. Additional documents?

20 **A. Additional -- I can't answer that**

21 **because you're assuming things that are not**

22 **stated in your question.**

23 Q. You stated that New York State

24 doesn't require additional documents for filing

25 default judgment, correct?

Page 129

1 M. SELIP  
 2 **THE WITNESS:** Can you repeat that?  
 3 (The record was read as follows:  
 4 Question: You stated that New York  
 5 State doesn't require additional documents  
 6 for filing default judgment, correct?)  
 7 **THE WITNESS:** I don't know.  
 8 **BY MR. SALTZMAN:**  
 9 Q. You don't know?  
 10 **A. Without knowing what you're**  
 11 **referring to as additional documents, I'm not**  
 12 **really sure what your getting at.**  
 13 Q. In addition to what you have while  
 14 you're pursuing the case.  
 15 **A. Depends on what I have in that**  
 16 **particular matter.**  
 17 Q. And if you need additional  
 18 documents, do you request those documents from  
 19 Midland to pursue the collection?  
 20 **A. On a default judgment matter or a**  
 21 **contested matter?**  
 22 Q. Default judgment.  
 23 **A. Prior to the recent OCA changes, I**  
 24 **would not need additional documentation to**  
 25 **obtain a default judgment.**

Page 130

1 M. SELIP  
 2 Q. Now you do?  
 3 **A. I refer you to the OCA rules.**  
 4 Q. And how do you go about getting  
 5 those documents from Midland?  
 6 **A. It has not been an issue.**  
 7 Q. You have not -- what do you mean by  
 8 that?  
 9 **A. I have not commenced any lawsuits**  
 10 **under the New York, the new rules.**  
 11 Q. When were the new rules  
 12 implemented?  
 13 **MR. FRANCOEUR:** Objection. If you  
 14 know.  
 15 **THE WITNESS:** There were two  
 16 different dates, July 1 and then I believe  
 17 March 1. I don't recall the exact date.  
 18 **BY MR. SALTZMAN:**  
 19 Q. Of what year?  
 20 **A. This year.**  
 21 Q. And so you haven't commenced any  
 22 additional actions since March; is that right?  
 23 **MR. FRANCOEUR:** Objection.  
 24 **THE WITNESS:** I filed lawsuits  
 25 since March.

Page 131

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. What about since July 1?  
 4 **A. No.**  
 5 Q. Why not since July 1?  
 6 **A. I have not received any placements**  
 7 **from Midland that would require me to take any**  
 8 **action to commence a lawsuit.**  
 9 Q. Have you received any placements  
 10 from Midland at all since July 1?  
 11 **A. No.**  
 12 Q. Do you know why?  
 13 **A. No, I don't.**  
 14 Q. Have you asked anybody at Midland  
 15 why?  
 16 **A. I have.**  
 17 Q. And who did you ask?  
 18 **A. I have asked Shane.**  
 19 Q. Anyone else?  
 20 **A. I don't believe so.**  
 21 Q. What did -- when you asked Shane  
 22 that question, what did he answer?  
 23 **MR. FRANCOEUR:** Objection. That's  
 24 privileged communication.  
 25 **MR. SCHWARTZ:** Yes. I'm going to

Page 132

1 M. SELIP  
 2 object, too.  
 3 **MR. SALTZMAN:** How is that  
 4 privileged?  
 5 **MR. SCHWARTZ:** Well, No. 1, it's a  
 6 communication between -- there's still a  
 7 retainer agreement. It's an  
 8 attorney/client communication.  
 9 **MR. FRANK:** About the collection of  
 10 a debt?  
 11 **MR. SCHWARTZ:** About anything.  
 12 About policies and practices. I mean, he  
 13 didn't -- my objection is attorney/client  
 14 privilege.  
 15 I can articulate it if you'd like.  
 16 I just don't believe you want me to  
 17 testify on the record.  
 18 **MR. SALTZMAN:** No. It's okay.  
 19 That's all right.  
 20 **MR. FRANK:** No. We know.  
 21 **MR. SCHWARTZ:** All right.  
 22 **BY MR. SALTZMAN:**  
 23 Q. Prior to July 1 of this year, were  
 24 there ever any instances in which C&S requested  
 25 documents from -- additional documents from MCM

Page 133

1 M. SELIP  
 2 and they were not provided?  
 3 **A. Yes.**  
 4 Q. Under what circumstances did that  
 5 happen?  
 6 **MR. FRANCOEUR:** Is there a time  
 7 frame in that question.  
 8 **BY MR. SALTZMAN:**  
 9 Q. I gave a time frame prior to  
 10 July 1, 2015.  
 11 **MR. FRANCOEUR:** In the last 25  
 12 years?  
 13 **BY MR. SALTZMAN:**  
 14 Q. We can start with the last ten  
 15 years.  
 16 **A. Under what circumstances?**  
 17 Q. Yes. You said that there were  
 18 instances when Midland did not provide  
 19 documents when they were requested. I'm asking  
 20 you what happened.  
 21 **MR. FRANCOEUR:** I object to the  
 22 form of the question. If you're able to  
 23 answer the question, go right ahead.  
 24 **THE WITNESS:** I asked for  
 25 documents. I didn't get them.

Page 134

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. What kind of documents did you ask  
 4 for that you didn't get?  
 5 **MR. FRANCOEUR:** Objection to the  
 6 form.  
 7 **THE WITNESS:** It varied by case.  
 8 It could have been --  
 9 **BY MR. SALTZMAN:**  
 10 Q. Well, generally.  
 11 **A. It could have been a pay clip. It**  
 12 **could have been certain statements, generally.**  
 13 Q. And did Midland -- in those  
 14 instances, did Midland explain why they didn't  
 15 produce -- didn't provide to you those  
 16 documents?  
 17 **A. No.**  
 18 **MR. FRANCOEUR:** Objection to form.  
 19 **BY MR. SALTZMAN:**  
 20 Q. They just would not provide them?  
 21 **A. Correct.**  
 22 **MR. FRANCOEUR:** Objection.  
 23 **BY MR. SALTZMAN:**  
 24 Q. And they wouldn't give you an  
 25 explanation?

Page 135

1 M. SELIP  
 2 **A. I didn't ask for an explanation.**  
 3 Q. Okay. Now, if you don't get a  
 4 document that you requested -- well, let me  
 5 step back.  
 6 Is it fair to assume that if you  
 7 request a document, it's a document that C&S  
 8 determines it needs for some purpose in  
 9 connection with collecting a debt?  
 10 **MR. FRANCOEUR:** Objection.  
 11 **THE WITNESS:** No.  
 12 **BY MR. SALTZMAN:**  
 13 Q. It's not fair to assume that?  
 14 **A. That's correct.**  
 15 Q. Okay. So other than in the  
 16 circumstance where you're trying to collect  
 17 debt, when would C&S request additional  
 18 documents from Midland?  
 19 **MR. FRANCOEUR:** Objection.  
 20 **THE WITNESS:** It wouldn't.  
 21 **BY MR. SALTZMAN:**  
 22 Q. So they would only request  
 23 additional documents when they believe it's  
 24 necessary to pursue the debt; is that right?  
 25 **MR. FRANCOEUR:** Objection.

Page 136

1 M. SELIP  
 2 **THE WITNESS:** No.  
 3 **MR. FRANCOEUR:** Mitchell, you've  
 4 got to give me a chance to object.  
 5 **THE WITNESS:** Oh, okay.  
 6 **BY MR. SALTZMAN:**  
 7 Q. When does C&S request additional  
 8 documents from Midland in connection with  
 9 pursuing a debt?  
 10 **A. When it believes it would be**  
 11 **helpful in collecting from the consumer.**  
 12 Q. And in such a circumstance, if  
 13 Midland does not provide you with the document,  
 14 does C&S then make a determination on whether  
 15 to proceed with pursuing the debt?  
 16 **A. Yes.**  
 17 Q. And are there times when C&S will  
 18 pursue the debt regardless of not having that  
 19 document?  
 20 **A. Correct.**  
 21 **MR. FRANCOEUR:** Counsel, we're  
 22 approaching four hours. I think we should  
 23 talk about lunch.  
 24 **MR. SALTZMAN:** Whatever is good for  
 25 the witness.

Page 137

1 M. SELIP  
 2 (Discussion held off the record.)  
 3 **MR. SALTZMAN:** I'd like to mark as  
 4 the next exhibit, I believe it's four.  
 5 (Whereupon, Exhibit No. 4, Screen  
 6 shots, was marked for identification.)  
 7 **BY MR. SALTZMAN:**  
 8 Q. So we've mark as Exhibit Selip 4 a  
 9 document that's Bates stamped S&S 00151 through  
 10 160.  
 11 And I would ask you, sir, do you  
 12 recognize this document?  
 13 **A. Yes.**  
 14 Q. And what is it?  
 15 **A. Screen shots of notes from my**  
 16 **Phoenix system.**  
 17 **MR. FRANCOEUR:** Just let the record  
 18 reflect that it's 12:58, and this is the  
 19 first question having to do with the  
 20 plaintiff in this case.  
 21 Continue counsel.  
 22 **BY MR. SALTZMAN:**  
 23 Q. What does this document reflect?  
 24 We can go through the columns if you like, and  
 25 I can ask you a question about each column.

Page 138

1 M. SELIP  
 2 Tell me what this is about, and we could save a  
 3 little time.  
 4 **A. It reflects notes from my client as**  
 5 **well as notes from my office either entered**  
 6 **manually or read in from the client's file that**  
 7 **it would have sent to us.**  
 8 Q. Is that in the text column, the  
 9 notes?  
 10 **A. The text would represent either**  
 11 **free form text, or it would be predetermined**  
 12 **text based on the code that's entered in the**  
 13 **fourth column.**  
 14 Q. And the code that's represented in  
 15 the fourth column under the heading code  
 16 number, is that a Phoenix code?  
 17 **A. It's a combination of Phoenix codes**  
 18 **in addition to some YGC codes and other codes**  
 19 **sent to me by my client.**  
 20 Q. So let's just take the second code  
 21 that's in the Column CC; W122. There's an  
 22 asterisk first.  
 23 So what does the asterisk  
 24 represent?  
 25 **A. That entire code taken as a whole**

Page 139

1 **M. SELIP**  
 2 **is a YGC code. I can't tell you what any part**  
 3 **of the code means. It's just a YGC code.**  
 4 Q. So is there a Phoenix code that you  
 5 could point us to in that column?  
 6 **A. The first one that I see is the**  
 7 **XVERPROP.**  
 8 Q. Okay. And then it says, "Property  
 9 ownership verified," in text; and that  
 10 corresponds to that code; is that right?  
 11 **A. That's right.**  
 12 Q. Where it says user for that  
 13 particular entry, it says administrative. Is  
 14 that a C&S administrator?  
 15 **A. It depends on the computer that**  
 16 **read the note into the Phoenix system. So it's**  
 17 **not necessarily the person who entered the**  
 18 **note.**  
 19 Q. It reflects the computer where the  
 20 entry is made?  
 21 **A. Correct -- no, not where the entry**  
 22 **was made, but where it was read into my system.**  
 23 Q. And read into your system from  
 24 where?  
 25 **A. From the -- depending on the code,**

Page 140

1 **M. SELIP**  
 2 **it could be from a client; it could be from a**  
 3 **vendor; or it could be from one of the firm's**  
 4 **employees.**  
 5 Q. So what does "administrative" mean?  
 6 **A. The person who logged into the**  
 7 **computer to read the notes in for that day**  
 8 **logged in as administrator. So it would have**  
 9 **been an IT manager.**  
 10 Q. That's a C&S IT manager?  
 11 **A. Correct.**  
 12 Q. Okay. And where it says -- above  
 13 that there are quite a few entries. It looks  
 14 like electronic interface; is that right?  
 15 **A. Yes.**  
 16 Q. What does that represent?  
 17 **A. These are notes were read in by a**  
 18 **computer who the login for that computer was**  
 19 **the electronic interface login.**  
 20 Q. And that would be from Midland?  
 21 **A. No, no. Somebody in the firm will**  
 22 **read the notes into our system. Midland**  
 23 **doesn't read notes into our system.**  
 24 Q. What is ED -- it looks like an I --  
 25 EDI2?



Page 141

1 M. SELIP  
 2 A. Same thing. Just a different user.  
 3 Q. Is that a particular computer?  
 4 What does it stand for?  
 5 A. It's a username used to log in to a  
 6 particular computer. Although, it could have  
 7 been used to log in to any computer. So it's  
 8 not a particular computer.  
 9 Q. So that EDI2 is a particular  
 10 person?  
 11 A. It's a username associated with a  
 12 function.  
 13 Q. What does "house" mean also in the  
 14 user column?  
 15 A. Just another username.  
 16 Q. It's just not clear to me. So I  
 17 apologize. But if it's a username and it's  
 18 associated with a function? I don't get that.  
 19 A. We will use usernames to log in to  
 20 a computer to run certain functions that are  
 21 being done on a daily basis.  
 22 Q. And is a particular username  
 23 associated with a particular function and only  
 24 that function?  
 25 A. It doesn't have to be, but that's

Page 142

1 M. SELIP  
 2 typically how we do it.  
 3 MR. FRANCOEUR: I'd like to ask  
 4 counsel a question. Are you recording  
 5 this?  
 6 MR. FRANK: No. That's Alan who's  
 7 been calling in. He's on the record.  
 8 MR. FRANCOEUR: Okay.  
 9 BY MR. SALTZMAN:  
 10 Q. And at the top of the document on  
 11 the first page, there are, it looks like, tabs;  
 12 and are those different functions within  
 13 Phoenix?  
 14 A. Not functions as much as screens  
 15 with information.  
 16 Q. What is diary?  
 17 A. That captures information that's in  
 18 the CLS system that we don't use anymore.  
 19 Q. Like what?  
 20 A. Diary codes, that sets things up  
 21 for future review; but we don't use that  
 22 function.  
 23 Q. What about employer?  
 24 A. If we know where a consumer works,  
 25 we would add that information into that tab.

Page 143

1 M. SELIP  
 2 Q. And PPA?  
 3 A. We use that tab to enter payment  
 4 arrangements on that file.  
 5 Q. And banks represents banks that are  
 6 associated?  
 7 A. Consumers banking institution.  
 8 Q. What's scrub?  
 9 A. We run certain automated tasks to  
 10 see if a consumer has filed bankruptcy or if  
 11 they're deceased or in the military, if a phone  
 12 number is a cell phone number. All of that  
 13 information is stored there as well as certain  
 14 information being in the screen we're looking  
 15 at now, which is the notes screen.  
 16 Q. What is ADVATTY?  
 17 A. Adversary attorney, if a consumer  
 18 has attorney information.  
 19 Q. And links?  
 20 A. That will lead to a screen that has  
 21 functions available to employees so that they  
 22 can do certain things on a file or outside  
 23 website links that we may need.  
 24 Q. When you say "they can do certain  
 25 things on a file," what do you mean by that?

Page 144

1 M. SELIP  
 2 A. If I want to close a file, I would  
 3 go to links; and within that screen, there's a  
 4 place for me to go and close the file.  
 5 Q. What kind of file are you talking  
 6 about?  
 7 A. The legal file.  
 8 Q. Oh, when you say "close," like a  
 9 closing code?  
 10 A. Yes.  
 11 Q. Okay. And priority notes?  
 12 A. If we want notes to appear as soon  
 13 as the person goes into a file, we would edit  
 14 there. And then as soon as they go into the  
 15 file, those notes jump out it at that person.  
 16 Q. And recordings?  
 17 A. Phone recordings. We record all  
 18 phone calls, incoming and outgoing; and we can  
 19 access them from that tab.  
 20 Q. And this is all the Phoenix system,  
 21 just to be clear?  
 22 A. Yes.  
 23 MR. SALTZMAN: Okay. It's a good  
 24 time to take a break.  
 25 (Whereupon, a lunch break was

Page 145

1 M. SELIP  
 2 taken.)  
 3 **BY MR. SALTZMAN:**  
 4 Q. Mr. Selip, before lunch would we  
 5 were talking about what steps C&S takes in  
 6 certain situations, for example, if an answer's  
 7 interposed or if discovery is served, and I  
 8 believe you testified that a code was sent to  
 9 Midland to indicate that one of these events  
 10 happened; is that right?  
 11 **A. Yes.**  
 12 Q. Do you know who at Midland reviews  
 13 these codes?  
 14 **A. No.**  
 15 Q. If you were awaiting instruction  
 16 from Midland in any of these cases, who would  
 17 at Midland would be the person to contact  
 18 someone at C&S?  
 19 **MR. FRANCOEUR:** Object to form.  
 20 **THE WITNESS:** It depends on what we  
 21 are waiting for.  
 22 **BY MR. SALTZMAN:**  
 23 Q. Okay. If you're waiting for  
 24 instruction regarding an answer, is there a  
 25 particular person?

Page 146

1 M. SELIP  
 2 **A. I previously testified that we**  
 3 **don't wait for instructions after we submit an**  
 4 **answer code.**  
 5 Q. What about for if discovery is  
 6 served on machines?  
 7 **A. What about discovery?**  
 8 Q. And you submit a code to MCM  
 9 indicating discovery was requested?  
 10 **A. Okay.**  
 11 Q. Do you wait for a response from  
 12 somebody at Midland?  
 13 **A. No.**  
 14 Q. Are there any instances where you  
 15 wait for a response from somebody at Midland?  
 16 **A. I believe that if a counterclaim is**  
 17 **filed, I need to get approval to bill.**  
 18 Q. And who does that approval come  
 19 from at Midland?  
 20 **A. I don't know.**  
 21 Q. How do you know that you've  
 22 received approval?  
 23 **A. The legal department would handle**  
 24 **that. I'm not sure who would get that**  
 25 **approval.**

Page 147

1 **M. SELIP**  
 2 Q. Who at the legal department? Would  
 3 it be anybody there?  
 4 **A. It could be Alicia, Jen, or Mary.**  
 5 Q. When Midland first sends a new  
 6 account to C&S for collection, does Midland  
 7 provide every document that it has in its  
 8 possession to C&S regarding that account?  
 9 **MR. FRANCOEUR:** Objection to form.  
 10 **THE WITNESS:** Since I don't want to  
 11 guess, I'm going to say I don't know.  
 12 **BY MR. SALTZMAN:**  
 13 Q. So it's possible that they don't  
 14 send every document?  
 15 **MR. FRANCOEUR:** Objection. I'm not  
 16 sure he has any knowledge. Answer that  
 17 question if you can.  
 18 **THE WITNESS:** I don't have that  
 19 knowledge.  
 20 **BY MR. SALTZMAN:**  
 21 Q. Who would know?  
 22 **A. Midland would know.**  
 23 Q. So when -- only Midland would know  
 24 if they send every document; is that what  
 25 you're testifying to?

Page 148

1 M. SELIP  
 2 **A. I would imagine the original**  
 3 **creditor would know.**  
 4 Q. Okay.  
 5 **A. I would probably find out at some**  
 6 **point in time.**  
 7 Q. So to your -- so when you say "I  
 8 would probably find out at some point in time,"  
 9 you mean C&S would find out?  
 10 **A. Correct.**  
 11 Q. So when C&S first gets the account  
 12 from Midland, they don't know whether they  
 13 received every document that Midland has in its  
 14 possession in connection with that account?  
 15 **A. That's correct.**  
 16 Q. Does C&S ever ask Midland to  
 17 provide Affidavits in support of its litigation  
 18 against debtors?  
 19 **A. Yes.**  
 20 Q. In what instances would C&S ask for  
 21 such Affidavits?  
 22 **A. To support a motion or to support**  
 23 **the request for the Entry of Judgment.**  
 24 Q. And how does C&S go about  
 25 requesting that from Midland?

Page 149

1 M. SELIP  
 2 **A. We draft the Affidavit, and we send**  
 3 **it to them.**  
 4 Q. Is there a code that's sent through  
 5 the YGC system?  
 6 **A. There is. In certain instances, we**  
 7 **will send a code if it's an Affidavit for a**  
 8 **specific purpose and then they would draft the**  
 9 **Affidavit and send it to us.**  
 10 Q. For what purposes would Midland  
 11 draft the Affidavit?  
 12 **A. If we're requesting a default**  
 13 **judgment.**  
 14 Q. The Affidavit that Midland drafts,  
 15 is that -- do they draft that from scratch each  
 16 time C&S makes such a request?  
 17 **A. I'm not sure what you're getting**  
 18 **at.**  
 19 Q. Is there a template, as far as you  
 20 know, for Midland Affidavits that they send to  
 21 C&S in connection with default judgments?  
 22 **A. Yes.**  
 23 Q. That's what I was getting at. So  
 24 there's some template. Now, the template who  
 25 drafts the template?

Page 150

1 M. SELIP  
 2 **A. I don't know who at Midland**  
 3 **initially drafted it.**  
 4 Q. Does C&S participate in the  
 5 drafting of the template?  
 6 **A. Yes.**  
 7 Q. And they would work collaboratively  
 8 with Midland in drafting the template; is that  
 9 right?  
 10 **A. Yes.**  
 11 Q. Does that template ever change?  
 12 **A. Yes.**  
 13 Q. Under what conditions would the  
 14 template change?  
 15 **A. Without being all-inclusive, it**  
 16 **could change if the legal requirements would**  
 17 **change.**  
 18 Q. Has the template changed in the  
 19 last ten years?  
 20 **A. Yes.**  
 21 Q. How many times has the template  
 22 changed in the last ten years?  
 23 **A. I really don't know.**  
 24 Q. Has it changed more than once?  
 25 **A. I don't remember.**

Page 151

1 **M. SELIP**  
 2 Q. Has it changed since March of this  
 3 year?  
 4 **MR. FRANCOEUR: Objection. If you**  
 5 **know.**  
 6 **THE WITNESS: I don't remember.**  
 7 **BY MR. SALTZMAN:**  
 8 Q. Has it changed since July of this  
 9 year?  
 10 **MR. FRANCOEUR: Same objection.**  
 11 **THE WITNESS: No.**  
 12 **BY MR. SALTZMAN:**  
 13 Q. Has it changed in the last year?  
 14 **A. I don't know.**  
 15 Q. Has it changed in the last five  
 16 years?  
 17 **A. I don't know.**  
 18 Q. Who participates -- from C&S, who  
 19 participates in the collaborative effort to  
 20 draft or revise this template?  
 21 **A. I do.**  
 22 Q. You did personally?  
 23 **A. Yes.**  
 24 Q. When is the last time you did that?  
 25 **A. I don't recall.**

Page 152

1 **M. SELIP**  
 2 Q. Did you participate in the last six  
 3 months?  
 4 **A. Not that I can remember.**  
 5 Q. Did you participate in the last  
 6 year?  
 7 **A. Not that I can remember.**  
 8 Q. Did you participate in the drafting  
 9 of the template in the last two years?  
 10 **A. I don't remember.**  
 11 Q. You don't remember any time;  
 12 although, you testified that you are the one  
 13 who participated with Midland in drafting the  
 14 Affidavit -- any revisions to the Affidavit,  
 15 correct?  
 16 **A. Yes.**  
 17 Q. But you don't remember when you  
 18 ever did that; is that fair?  
 19 **A. That's correct.**  
 20 Q. Now, this template, does C&S send  
 21 the template to Midland when they -- when C&S  
 22 needs such an affidavit?  
 23 **A. No.**  
 24 Q. Does that template reside at  
 25 Midland?

Page 153

1 M. SELIP  
 2 **A. As far as I know, yes.**  
 3 Q. Okay. So does C&S send anything to  
 4 Midland when they request such a template, any  
 5 information I should say?  
 6 **A. Yes, we do.**  
 7 Q. What information do you send?  
 8 **A. We send a code indicating which**  
 9 **template we want along with other pieces of**  
 10 **information to allow Midland to complete the**  
 11 **Affidavit.**  
 12 Q. And you indicate which template you  
 13 want that seems to indicate that there's more  
 14 than one template; is that right?  
 15 **A. There may be two that we use in**  
 16 **New York. I know that Midland has more for use**  
 17 **in other states.**  
 18 Q. Okay. So there were two templates  
 19 that C&S utilizes in New York, correct; is that  
 20 right?  
 21 **A. I don't remember if we use a second**  
 22 **template for summary judgment motions or if we**  
 23 **are currently drafting those in-house and**  
 24 **sending it to them.**  
 25 Q. Okay. All right. But so let's

Page 154

1 M. SELIP  
 2 back up and ask you, what are the two templates  
 3 that you know about?  
 4 **A. One is for a default situation, and**  
 5 **I believe the other one is for summary judgment**  
 6 **situation.**  
 7 Q. And on the summary judgment, you're  
 8 not sure if Midland has a template that they  
 9 use or whether C&S drafts it; is that correct?  
 10 **A. Yes. Every client has a different**  
 11 **procedure, and I don't remember Midland's**  
 12 **specific requirements -- procedures.**  
 13 Q. So let's go back to the default  
 14 situation. You said that you provide certain  
 15 of the information to Midland, and they  
 16 populate the template, correct?  
 17 **A. Correct.**  
 18 Q. And that information, what is it  
 19 based upon?  
 20 **A. I don't remember all the different**  
 21 **fields of information that is taken from my**  
 22 **collection system and sent to YGC pursuant to**  
 23 **the -- as part of the YGC file that we create**  
 24 **data.**  
 25 Q. So the actual data is included in

Page 155

1 M. SELIP  
 2 the YGC record that goes to Midland, correct?  
 3 **A. It's part of the data that we sent**  
 4 **to YGC.**  
 5 Q. Right, okay. Now, how does  
 6 somebody at -- well, first who at C&S, the  
 7 department I should say, at C&S works on  
 8 populating or gathering the information for  
 9 populating the Affidavit?  
 10 **A. It would be the legal department.**  
 11 Q. Is that the contested legal  
 12 department or the non-contested legal  
 13 department?  
 14 **A. It could be either one, but**  
 15 **typically the non-contested legal department.**  
 16 Q. And how does someone in the  
 17 non-contested legal department go about  
 18 collecting the data that they need to send  
 19 through the YGC system to Midland for this  
 20 purpose?  
 21 **A. We get the information as part of**  
 22 **our regular course of filing the lawsuit. Some**  
 23 **of the information that I recall being sent**  
 24 **would be the index number. So once we file a**  
 25 **Summons and Complaint, we enter the index**

Page 156

1 M. SELIP  
 2 **number into our system. We enter the date that**  
 3 **the index number was purchased.**  
 4 **And again, I don't recall the other**  
 5 **fields that are being sent; so I don't want to**  
 6 **speak to how they get into the system.**  
 7 Q. Do you know how long it typically  
 8 takes to gather that data in order to send it  
 9 to Midland?  
 10 **A. It varies depending on the court**  
 11 **and the matter.**  
 12 Q. And the summary judgment affidavit,  
 13 is it substantially different than the one used  
 14 in the default situation?  
 15 **A. It depends on your definition of**  
 16 **substantial. So there are differences, yes.**  
 17 Q. What are some of those differences?  
 18 **A. It's my recollection that we are**  
 19 **drafting it. We will tailor it to the facts of**  
 20 **the specific case at hand.**  
 21 Q. And once it's completed in the  
 22 drafting form, do you send it to Midland for  
 23 review?  
 24 **A. Yes.**  
 25 Q. And is it -- how is the Affidavit

Page 157

1 M. SELIP  
 2 sent to Midland?  
 3 A. I think we send it by FedEx.  
 4 Q. So it's not sent electronically?  
 5 A. I don't believe so because there  
 6 are exhibits attached to it.  
 7 Q. And then do you know what happens  
 8 once Midland gets it?  
 9 A. I can't speak to that.  
 10 Q. Do they ever -- once they receive  
 11 it, do you get it back from them?  
 12 A. Yes.  
 13 Q. And when you get it back, is it  
 14 typically executed by somebody at Midland?  
 15 A. Yes.  
 16 Q. Do you know if they review it at  
 17 Midland?  
 18 MR. FRANCOEUR: Objection.  
 19 THE WITNESS: I can't speak to  
 20 that. You know, I can speak to that. I  
 21 have been advised that they have a very  
 22 thorough affidavit review process that  
 23 does require employees to look at it and  
 24 analyze it and sign it when appropriate.  
 25

Page 158

1 M. SELIP  
 2 BY MR. SALTZMAN:  
 3 Q. And who so advised you?  
 4 A. I have been to a bunch of Midland  
 5 meetings. I have had conference calls where  
 6 this issue may have come up. I cannot point  
 7 out to you the exact date or the person who was  
 8 doing the talking at that time.  
 9 Q. Typically, once you submit the  
 10 Affidavit -- strike that.  
 11 Typically, once you submit the  
 12 information through YGC to Midland, how long  
 13 does it take for Midland to turn around and  
 14 provide -- turn it around and provide an  
 15 Affidavit to C&S?  
 16 A. I don't recall the exact time  
 17 period.  
 18 Q. And how about for summary judgment?  
 19 A. The same thing, I don't recall.  
 20 Q. Is the time it takes to return a  
 21 summary judgment affidavit executed by somebody  
 22 at Midland longer than the time it takes for  
 23 them to turn around and default judgment  
 24 affidavit?  
 25 MR. FRANCOEUR: Objection.

Page 159

1 M. SELIP  
 2 THE WITNESS: I'm not aware.  
 3 BY MR. SALTZMAN:  
 4 Q. In connection with the default  
 5 judgment affidavits, do you know what  
 6 department in Midland is in charge of reviewing  
 7 the Affidavit?  
 8 A. I'm not familiar with the names of  
 9 the different departments that Midland has.  
 10 Q. Do you know any individual persons  
 11 who review these?  
 12 A. Not that I'm aware of.  
 13 Q. Who's the affiant in those  
 14 affidavits?  
 15 A. An employee of Midland Credit  
 16 Management.  
 17 Q. Do you know who the notary is on  
 18 those typically?  
 19 A. Not personally.  
 20 Q. I don't mean the personal  
 21 individual, but do you know who does the  
 22 notarization for them generally?  
 23 MR. FRANCOEUR: Objection.  
 24 THE WITNESS: I'm not sure if I  
 25 understand what you're asking.

Page 160

1 M. SELIP  
 2 BY MR. SALTZMAN:  
 3 Q. These -- the people who review the  
 4 Affidavits, whether it's for the default  
 5 judgment or for summary judgment, do you know  
 6 what office they work out of for Midland?  
 7 A. No. I'm not a hundred percent  
 8 sure.  
 9 Q. What do you think?  
 10 A. I believe it's their St. Cloud,  
 11 Minnesota, office.  
 12 Q. Do you know if any particular  
 13 people in Midland are assigned to work with  
 14 your particular firm as opposed to working with  
 15 or for many of the different firms?  
 16 MR. FRANCOEUR: Objection.  
 17 THE WITNESS: It's a general  
 18 question. Are you asking generally if  
 19 there's somebody at Midland who is  
 20 assigned to my firm without regard to  
 21 subject matter?  
 22 BY MR. SALTZMAN:  
 23 Q. No. In connection with the  
 24 Affidavits?  
 25 A. In connection with the Affidavits?



Page 161

1 **M. SELIP**

2 Q. Yes.

3 **A. No, I don't recall.**

4 Q. Is there somebody who is generally

5 assigned to work with C&S?

6 **A. Yes.**

7 Q. Who?

8 **A. Shane.**

9 Q. Anybody else?

10 **A. I believe Joe Gugal. You know, I'm**

11 **not sure if anybody else is.**

12 Q. Aside from the specific

13 consumer-related data in connection with the

14 default judgment affidavits, does the language

15 of the affidavit change within New York State

16 jurisdictions?

17 In other words, if you're filing

18 something in Manhattan Court as opposed to

19 Nassau County or upstate, do those change or is

20 it one template for New York State?

21 **A. The caption will reflect the**

22 **different court.**

23 Q. Right. But other than that, the

24 substance of it?

25 **A. We don't change the cause of action**

Page 162

1 **M. SELIP**

2 **based on the venue; so no, the substance is the**

3 **same.**

4 Q. Okay. Does your firm maintain

5 copies of the Affidavits once they're created

6 and filed?

7 **A. Yes.**

8 Q. For how long do you maintain those?

9 **A. Seven plus years.**

10 Q. Are they maintained -- are they

11 scanned into your system?

12 **A. Yes.**

13 Q. And you get rid of the paper

14 copies?

15 **A. The paper copies are submitted to**

16 **the court.**

17 Q. Sure. But do you keep a paper

18 copy? Does anybody keep paper a paper copy?

19 Now, we earlier discussed actual

20 physical people appearing as witnesses at trial

21 on behalf of Midland, Midland personnel

22 appearing on behalf of Midland.

23 Do you know how many times that's

24 happened, say, in the last ten years in

25 New York State?

Page 163

1 **M. SELIP**

2 **A. No, I don't keep track of this**

3 **personally.**

4 Q. Does anybody keep of track of it?

5 If you don't personally keep track of it,

6 anybody it at C&S?

7 **A. I don't think so.**

8 Q. If somebody at C&S wanted to know,

9 boy, how many times did we bring in a witness

10 from Midland? I wonder how many could they

11 find that out?

12 **A. I don't think so.**

13 Q. Is there a code within the Phoenix

14 system indicating that a request for a physical

15 witness has been made to Midland?

16 **A. Yes.**

17 Q. And is there a code from Midland to

18 C&S indicating that that request would be

19 granted?

20 **A. Not that I'm aware of.**

21 Q. So just let's run through the

22 procedure just so I understand. So when

23 somebody at C&S believes that they need a

24 physical witness, they will enter a code in the

25 Phoenix system which translates that into the

Page 164

1 **M. SELIP**

2 YGC system and now -- no?

3 **A. No.**

4 Q. Tell me what happens?

5 **A. So somebody will enter the code in**

6 **my system so that we know we need a witness.**

7 **Somebody else in my office will make a request**

8 **to Midland. It is a form that's filled out.**

9 **And I don't remember if it's mailed or faxed to**

10 **the client.**

11 **Once that request is sent, we know**

12 **this has been a request and is sent back to me.**

13 Q. Okay. So it doesn't go through the

14 YGC system? It's actually a paper request?

15 **A. That's my understanding, yes.**

16 Q. Okay. And then after that, C&S

17 doesn't keep track of whether that request has

18 been granted or not; is that what you're

19 saying?

20 **A. No, we do not.**

21 Q. Okay. Is there a code for whether

22 the case is going to trial?

23 **A. Yes.**

24 Q. And by that, just let me be

25 specific. What I mean is whether a trial date

Page 165

1 M. SELIP  
 2 has been set. Is there a code for that?  
 3 A. Yes.  
 4 Q. Okay. With respect to plaintiff  
 5 Agoado -- one second. Is there a code for a  
 6 trial date being adjourned on the Phoenix  
 7 system?  
 8 A. I don't remember if we put in a  
 9 code to indicate that it was adjourned or if we  
 10 put the same code in when the first date comes  
 11 in so we just use that first code the second  
 12 time.  
 13 Q. So the system would show the same  
 14 code twice on two different dates so the user  
 15 could see that it was put over from this date  
 16 to this date?  
 17 A. Exactly.  
 18 Q. Okay. Now, if somebody never  
 19 applied for credit and they claim to C&S as a  
 20 defense, they never applied for this credit,  
 21 somebody else did, I think we discussed a  
 22 little bit earlier is that something that C&S  
 23 would look into as possible fraud?  
 24 A. Yes.  
 25 Q. And would they -- what steps would

Page 166

1 M. SELIP  
 2 C&S take to investigate whether the defendant  
 3 debtor is right about that?  
 4 A. We would send a letter to the  
 5 consumer asking for documentation in a  
 6 particular document to show where the consumer  
 7 lived at, the time the account was opened; and  
 8 we also will send a certificate of fraud or ID  
 9 theft asking that the consumer give us certain  
 10 information to allow us to investigate the  
 11 claim. And we would also contact our client,  
 12 let them know about the allegation. And if  
 13 they needed additional documents, we would ask  
 14 the client for it, in particular, pay stubs --  
 15 sorry, copies of payments to see if the payment  
 16 was made by the consumer who is now alleging  
 17 fraud.  
 18 Q. And what if -- what happens if  
 19 Midland cannot provide that information?  
 20 MR. FRANCOEUR: Objection.  
 21 THE WITNESS: It depends on the  
 22 circumstances. I can't give you a  
 23 one-size-fits-all answer to that.  
 24 BY MR. SALTZMAN:  
 25 Q. So for example, give me one

Page 167

1 M. SELIP  
 2 example.  
 3 A. A consumer provides a copy of his  
 4 or her license. It shows that he or she lived  
 5 in Texas at the time the account was opened,  
 6 provides utility bills, mortgage, rent,  
 7 whatever. All shows the person lived in Texas.  
 8 We take a look at the application and the  
 9 statements, and they all go to somebody  
 10 somewhere in New York. That would be a  
 11 situation where we would close that file and  
 12 tell Midland to close its file as a result of  
 13 fraud.  
 14 Q. Do you know how many debt  
 15 collection actions have been filed by C&S on  
 16 behalf of Midland in the past year?  
 17 A. I don't know the exact number.  
 18 Q. Do you know an estimate?  
 19 A. I would estimate it at about 2,500.  
 20 Q. And what about since, let's say,  
 21 2013?  
 22 A. At this point I don't have idea.  
 23 Q. Do you know how many of those had  
 24 witnesses from Midland actually appeared?  
 25 A. No, I don't know.

Page 168

1 M. SELIP  
 2 Q. Do you know what -- well, let me  
 3 ask you this: So on the Phoenix codes, is  
 4 there a code for a claim being dropped because  
 5 of lack of evidence?  
 6 A. There's a close code for no  
 7 documentation.  
 8 Q. So if I wanted to know how many  
 9 times -- what percentage of cases were closed  
 10 for lack of documentation, I could actually run  
 11 those numbers pretty easily, right?  
 12 A. Yes.  
 13 Q. And could I figure out the  
 14 percentage of claims that are -- that went to  
 15 default judgment the same way?  
 16 A. Yes.  
 17 Q. Does C&S internally keep reports on  
 18 its performance in collecting debt for Midland?  
 19 In other words, do they keep track of how many  
 20 cases were successfully pursued, how much money  
 21 was recovered, how much C&S was able to keep  
 22 after being paid or something like that? Are  
 23 those reports kept by C&S?  
 24 MR. FRANCOEUR: Objection.  
 25 THE WITNESS: It's a general

Page 169

1 M. SELIP  
 2 question; but yes, we have the ability to  
 3 run reports.  
 4 **BY MR. SALTZMAN:**  
 5 Q. And the data that the reports  
 6 runoff of, that's also data that's kept for  
 7 seven years?  
 8 **A. Yes.**  
 9 Q. Does C&S ever send any of these  
 10 reports on its own performance to Midland?  
 11 **A. We just started to send a couple of**  
 12 **internal reports to Midland.**  
 13 Q. When was that?  
 14 **A. Probably earlier this year.**  
 15 Q. What month?  
 16 **A. I'm not sure.**  
 17 Q. Before July?  
 18 **A. Yes.**  
 19 Q. Before March?  
 20 **A. I don't think so.**  
 21 Q. And does Midland ever send to C&S  
 22 its reports on C&S performance?  
 23 **A. Yes.**  
 24 **MR. FRANCOEUR:** Objection.  
 25

Page 170

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. How often do they do that?  
 4 **A. Monthly.**  
 5 Q. And do you personally ever review  
 6 those reports?  
 7 **A. Yes.**  
 8 Q. Does Mr. Slamowitz review them?  
 9 **A. I don't know.**  
 10 Q. Do you review them with anyone  
 11 else?  
 12 **A. Yes.**  
 13 Q. With whom?  
 14 **A. I review them with Veronica Radin,**  
 15 **who I mentioned is the director of operations;**  
 16 **Alicia, managing attorney; some of the senior**  
 17 **collection managers; the IT managers; Megan,**  
 18 **who I mentioned is one of the managers in the**  
 19 **legal department; as well as Jen.**  
 20 Q. How is C&S paid by Midland?  
 21 **MR. FRANCOEUR:** Objection. I'm  
 22 going to direct the witness not to answer.  
 23 It's privileged communication.  
 24 Compensation has already been ruled upon,  
 25 it's my understanding, with the Motion to

Page 171

1 M. SELIP  
 2 Compel; and then you're digging into the  
 3 area of what and how they were paid is all  
 4 privileged.  
 5 **MR. FRANK:** There was no mention of  
 6 privilege in the Court's order on the  
 7 Motion to Compel.  
 8 **MR. SCHWARTZ:** Okay. Let me  
 9 respond since it was our order. The order  
 10 specifically stated that they weren't  
 11 privy to financial information related to  
 12 purchase agreements.  
 13 I have no problem with you asking  
 14 how they were paid, but certainly not  
 15 percentages or amounts. If you're going  
 16 to do that, then I preserve that  
 17 objection.  
 18 **MR. SALTZMAN:** I had no intention  
 19 of asking that.  
 20 **MR. SCHWARTZ:** Okay. That's --  
 21 whether you're asking if he's hourly or  
 22 whatever.  
 23 **BY MR. SALTZMAN:**  
 24 Q. I want to know was the company, was  
 25 C&S paid on a percentage basis? Yes or no?

Page 172

1 M. SELIP  
 2 **A. Yes.**  
 3 Q. And in addition to on a percentage  
 4 basis, is there an hourly rate paid to C&S?  
 5 **A. On counterclaim matters.**  
 6 Q. And is C&S reimbursed for expenses  
 7 by Midland?  
 8 **A. What expenses are you asking about?**  
 9 Q. What expenses are they reimbursed  
 10 for?  
 11 **A. Court costs, process server fee,**  
 12 **any fee charged by the court, county clerk,**  
 13 **enforcement officer. I think that's it.**  
 14 Q. Does Midland reimburse you for  
 15 sheriff's poundage?  
 16 **A. The sheriff takes his own poundage**  
 17 **out of money he collects from the consumer.**  
 18 Q. Restraining orders to bank  
 19 accounts?  
 20 **A. There are no costs involved.**  
 21 Q. Property executions?  
 22 **A. Yes. That's an enforcement officer**  
 23 **fee.**  
 24 Q. Are getting Affidavits of  
 25 nonmilitary service?

Page 173

1 M. SELIP  
 2 **A. There are no costs involved.**  
 3 **MR. SALTZMAN:** I'm almost done.  
 4 Why don't we take a break.  
 5 (Whereupon, a short break was  
 6 taken.)  
 7 **MR. FRANK:** Joe, when you  
 8 instructed the witness not to answer  
 9 questions about the compensation that his  
 10 firm receives in association with debt  
 11 collection, and I just wanted to  
 12 clarify --  
 13 **MR. FRANCOEUR:** I'm sorry.  
 14 **MR. FRANK:** I'm sorry. Earlier you  
 15 went on the record and instructed the  
 16 witness not to answer questions regarding  
 17 the compensation that his firm receives  
 18 for the debt collection services that it  
 19 provides to Midland. And I just wanted to  
 20 clarify the basis of that objection.  
 21 Are you -- is it your position,  
 22 because there was some confusion. Is it  
 23 your position that the compensation that  
 24 your client receives, that that's  
 25 information that's privileged?

Page 174

1 M. SELIP  
 2 **MR. FRANCOEUR:** I'm not taking -- I  
 3 believe that was resolved. Wasn't that  
 4 resolved with Andrew's objection? I mean,  
 5 the privilege belongs to the client.  
 6 **MR. FRANK:** Okay. But it's an  
 7 assertion of privilege; is that what's  
 8 going on?  
 9 **MR. SCHWARTZ:** No. My objection is  
 10 you're not entitled to that information at  
 11 all. It's got absolutely nothing, no  
 12 bearings on the complaint. And if you  
 13 have an issue with that, we can go talk to  
 14 the judge.  
 15 **MR. FRANK:** So it's a relevance  
 16 objection?  
 17 **MR. SCHWARTZ:** It's more than a  
 18 relevance objection.  
 19 **MR. FRANK:** What does more than a  
 20 relevance objection mean?  
 21 **MR. SCHWARTZ:** Because it's not  
 22 only utterly irrelevant to the claims, but  
 23 it's also -- how do I say -- there's  
 24 privilege and then there's -- it's a  
 25 fishing expedition that goes so far beyond

Page 175

1 M. SELIP  
 2 the fishing expedition that my client is  
 3 not going to give that information up  
 4 without the court ordering him to.  
 5 **MR. FRANCOEUR:** And also it's  
 6 proprietary. What one company percentage  
 7 gets could give another company  
 8 competitive advantage.  
 9 So it's definitely something that's  
 10 private and something that's going to be  
 11 protected. We cannot allow the client to  
 12 talk about without under a court order, a  
 13 seal something.  
 14 **MR. FRANK:** Okay. Well, it is  
 15 plaintiff's position that the economic  
 16 system does incentivize wrongdoing, which  
 17 was clarified in our letter to the Court.  
 18 And so the notion that the economic  
 19 incentive system is by definition  
 20 irrelevant is simply not true based on the  
 21 theory set forth.  
 22 **MR. SCHWARTZ:** Okay. I can speak  
 23 to this, because the order specifically  
 24 allowed us to provide it redacted without  
 25 that information.

Page 176

1 M. SELIP  
 2 **MR. FRANK:** The order does not  
 3 specify what information should or should  
 4 not be redacted.  
 5 **MR. SCHWARTZ:** I would like to see  
 6 a copy of the order. In fact, I pull it  
 7 up right now.  
 8 **MR. FRANK:** I asked for it.  
 9 **MR. FRANCOEUR:** Gregory, the  
 10 witness did testify that there is a  
 11 percentage, what the actual number is.  
 12 You could try to get that, but you know --  
 13 **MR. FRANK:** I just want it on the  
 14 record what the form of objection is, you  
 15 know, what specifically --  
 16 **MR. SCHWARTZ:** It's privileged.  
 17 It's proprietary. It's confidential.  
 18 **MR. FRANK:** Okay. So the  
 19 proprietary, what is your position as to  
 20 why the Court's confidentiality order does  
 21 not obviate the proprietary objection.  
 22 **MR. SCHWARTZ:** Okay. Let me just  
 23 read -- let me just read from order of the  
 24 Court. And again, this is not -- this is  
 25 the same subject matter or the same issue,

Page 177

1 M. SELIP  
 2 but it's not the same document. It's the  
 3 purchase agreement.  
 4 And judge's order specifically --  
 5 Magistrate Judge Lindsay stated -- and I'm  
 6 only going to read. Quote, "It is  
 7 defendant's position that redaction is  
 8 necessary because the pricing information  
 9 is highly confidential and the protection  
 10 of pricing information is of great value  
 11 to both Midland and the original  
 12 creditors."  
 13 **MR. FRANK:** The pricing of the debt  
 14 purchased by Midland.  
 15 **MR. SCHWARTZ:** Okay.  
 16 **MR. FRANK:** Is there any mention of  
 17 the fee structure in the order?  
 18 **MR. SCHWARTZ:** No. Because that  
 19 issue is not before the Court.  
 20 **MR. FRANK:** Okay.  
 21 **MR. SCHWARTZ:** But following the  
 22 same logic, plaintiff's Motion to Compel  
 23 argues -- quote, "Plaintiff's Motion to  
 24 Compel argues the production of the  
 25 purchase agreements are a central

Page 178

1 M. SELIP  
 2 component to the plaintiff's case, but do  
 3 not offer any justification for the  
 4 broader request for, 'All documents  
 5 reflecting or related to the sale of  
 6 plaintiff's alleged debt.'"  
 7 **MR. FRANK:** Okay. Sale.  
 8 **MR. SCHWARTZ:** And then -- hold on.  
 9 And then finally, "Having considered the  
 10 arguments of both parties, the defendants  
 11 are hereby ordered to produce the purchase  
 12 agreements relevant to the accounts of  
 13 each presently named plaintiff in the  
 14 present litigation in redacted form," end  
 15 quote.  
 16 So while this issue isn't before  
 17 the Court yet --  
 18 **MR. FRANK:** There was no mention at  
 19 all in the Court's orders of these fees.  
 20 **MR. SCHWARTZ:** Correct. But it's  
 21 the same logic. If you want to send a  
 22 letter to the Court, we'll respond  
 23 appropriately, see what they have to say.  
 24 **MR. FRANK:** So it's your position  
 25 because IT'S irrelevant, but you're still

Page 179

1 M. SELIP  
 2 instructing him not to answer based on  
 3 relevance?  
 4 **MR. SCHWARTZ:** It's irrelevant.  
 5 It's proprietary.  
 6 **MR. FRANK:** That's where I'm  
 7 running into -- my problem is simple, and  
 8 that is you may prevail and the answers  
 9 may be struck; but it is improper to  
 10 instruct him not to answer questions  
 11 because you consider them irrelevant.  
 12 **MR. FRANCOEUR:** Relevance is not my  
 13 objection.  
 14 **MR. FRANK:** Okay.  
 15 **MR. FRANCOEUR:** Even though I think  
 16 it's way not relevant.  
 17 **MR. FRANK:** So what's the  
 18 specific --  
 19 **MR. FRANCOEUR:** It's proprietary,  
 20 and I do believe that this is a privileged  
 21 communication. I also think it's been  
 22 waived, and it should have been addressed  
 23 before my client trucks in here to  
 24 New York City.  
 25 So I have a proprietary. I will

Page 180

1 M. SELIP  
 2 assert relevance, and I will say it's been  
 3 waived. So I have a threefold --  
 4 **MR. FRANK:** We've been asking about  
 5 the fees and things forever.  
 6 **MR. FRANCOEUR:** You never should  
 7 have had my witness step foot in the room  
 8 if you wanted this information. It should  
 9 have been reserved first. It's been  
 10 waived.  
 11 **MR. FRANK:** At what time did you  
 12 state that you weren't going to state the  
 13 fee information.  
 14 **MR. FRANCOEUR:** I'm not here to  
 15 testify. You asked me the basis. I gave  
 16 you the three-pronged basis.  
 17 **MR. FRANK:** That you feel that it's  
 18 privileged information. The amount of  
 19 compensation --  
 20 **MR. FRANCOEUR:** For propriety.  
 21 It's a fourth. I do think there's some  
 22 privilege aspect to this.  
 23 So he's not testifying. He's not  
 24 going to give you any numbers.  
 25 **MR. FRANK:** Okay. Let's go on.



Page 181

1 M. SELIP  
 2 **BY MR. SALTZMAN:**  
 3 Q. From 2011 on, in cases where C&S  
 4 prevailed at trial, does C&S provide Midland  
 5 with information indicating that through a  
 6 code?  
 7 **A. We send a code when the judgment is**  
 8 **entered.**  
 9 Q. And how many cases in the last year  
 10 has C&S on behalf of Midland won at trial?  
 11 **A. I don't know the exact number.**  
 12 Q. Is it more than 100?  
 13 **A. No.**  
 14 Q. Is it more than 50?  
 15 **A. No.**  
 16 Q. Is it more than 20?  
 17 **A. To save you the trouble, I believe**  
 18 **it would be in the single digits.**  
 19 Q. In connection with requesting a  
 20 witness for motions for default judgment, are  
 21 there any economic considerations that C&S  
 22 takes into account before requesting such a  
 23 witness?  
 24 **A. Witnesses are not needed to enter**  
 25 **the default judgment.**

Page 182

1 M. SELIP  
 2 Q. In connection with trial and  
 3 bringing in a witness, are there economic  
 4 considerations that C&S takes into account  
 5 before requesting a witness?  
 6 **A. No.**  
 7 Q. What's the basis for making that  
 8 request?  
 9 **A. If there's a trial that requires a**  
 10 **witness, we make that request.**  
 11 Q. And is that the case even if the  
 12 debt is only for, let's say, \$500?  
 13 **A. My answer won't change.**  
 14 Q. Do you know about how many Midland  
 15 witnesses are -- are produced in the past year  
 16 at trial for -- on behalf of C&S?  
 17 **A. I don't know.**  
 18 Q. Again --  
 19 **A. In this case, I won't have idea**  
 20 **regardless of the range of numbers you throw**  
 21 **out.**  
 22 Q. Okay. At the beginning of the day,  
 23 we discussed the different departments at C&S.  
 24 Who is the head of the judgment  
 25 enforcement division of C&S?

Page 183

1 M. SELIP  
 2 **A. When you say "the head," the**  
 3 **attorneys at the firm are all responsible for**  
 4 **managing the departments.**  
 5 Q. Is there one person who manages the  
 6 judgment enforcement department, one particular  
 7 person?  
 8 **A. There isn't just one person, no.**  
 9 Q. And what about the compliance  
 10 department?  
 11 **A. That's the same thing. There are**  
 12 **several attorneys, all of whom have a role in**  
 13 **managing that department.**  
 14 Q. When -- do they meet periodically  
 15 to discuss management of that department?  
 16 **A. Every week.**  
 17 Q. Is there a weekly meeting for each  
 18 of the departments, or is it a weekly -- is it  
 19 a weekly meeting of all partners and  
 20 everything's discussed?  
 21 **A. Most of the departments have a**  
 22 **weekly meeting. I'm not sure about some of**  
 23 **them. And then the heads of all the**  
 24 **departments have a weekly meeting in addition**  
 25 **to the departmental meetings.**

Page 184

1 M. SELIP  
 2 Q. Okay. So when the heads of all the  
 3 departments meet, how many people are in that  
 4 meeting?  
 5 **A. It's the director of operations,**  
 6 **the managing attorney, the IT managers, myself,**  
 7 **and the other partners depending on the day.**  
 8 Q. And who -- the director of  
 9 operations is who?  
 10 **A. Veronica Radin.**  
 11 Q. And then you said it's the director  
 12 of operations?  
 13 **A. Which is Veronica.**  
 14 Q. Managing partner?  
 15 **A. Not managing partner. I said**  
 16 **managing attorney.**  
 17 Q. Managing attorney.  
 18 **A. Alicia to be clear.**  
 19 Q. Okay. And who else? Why don't you  
 20 just give me the position and the name. It  
 21 would be easier.  
 22 **A. Ed Wilkinson, who is an IT manager.**  
 23 **Keith Bush, another IT manager. It'll be one**  
 24 **or the other of them. And then it will be the**  
 25 **five partners on occasion. The two Jersey**

Page 185

1 **M. SELIP**

2 **partners don't always come up to this meeting.**

3 Q. The Jersey firm does the same

4 business as New York?

5 **A. Well, it's our -- yes. They handle**

6 **the litigation in the state of Jersey.**

7 Q. Are the procedures the same for the

8 Jersey firm as New York?

9 **A. That sounded like a wise-ass -- the**

10 **legal procedures is vary state by state.**

11 Q. Right. But the -- procedures, how

12 things are handled internally.

13 **A. That office handles New Jersey**

14 **litigation. So procedures relative to the**

15 **practice of law in New Jersey apply to that**

16 **office.**

17 Q. You testified that you started in

18 Upton, Cohen & Slamowitz in about October

19 of '94, correct?

20 **A. Yes.**

21 Q. What was your position when you

22 started there?

23 **A. Attorney.**

24 Q. And you moved up, I assume?

25 **MR. FRANCOEUR: Objection to form.**

Page 186

1 **M. SELIP**

2 **MR. SCHWARTZ: Objection. It's a**

3 **trick question.**

4 **THE WITNESS: I promoted myself**

5 **in '96 to managing attorney, and then I**

6 **promoted myself to director of operations**

7 **in '99.**

8 **BY MR. SALTZMAN:**

9 Q. So but when you started, you were

10 not a partner, right?

11 **A. No.**

12 Q. Okay. So --

13 **A. Not of Upton, Cohen & Slamowitz in**

14 **New York. In about '96, we formed a**

15 **partnership in New Jersey by the same name; and**

16 **I was a partner of that firm.**

17 Q. Okay. And that was in '96. And

18 then you became -- what was your next position?

19 **A. After the director of operations, I**

20 **gave myself the title of chief compliance**

21 **officer; and then in January, just plain old**

22 **partner.**

23 Q. Plain old?

24 **A. Plain old partner.**

25 Q. And I believe we discussed what

Page 187

1 **M. SELIP**

2 your role is as director of operations earlier

3 today, right? I think we discussed what your

4 tasks are.

5 What about as chief of compliance?

6 **A. The main function of that**

7 **continuing role is to ensure compliance with**

8 **federal, state, and local laws as well as**

9 **compliance would your clients' procedures.**

10 Q. And the clients' procedures are all

11 contained in the manual we discussed earlier

12 today?

13 **A. Midland's procedures are, yes.**

14 Q. Yes. And are Midland's procedures

15 contained anywhere else?

16 **A. They may on occasion send an e-mail**

17 **qualifying a procedure, adding or changing a**

18 **procedure.**

19 Q. If one of those e-mails comes into

20 C&S, is it incorporated in some way into the

21 manual; or is it just an e-mail that's out

22 there that people are aware of?

23 **A. It's incorporated into my firm's**

24 **procedures. If Midland issues an update to its**

25 **manual, then the update becomes the operating**

Page 188

1 **M. SELIP**

2 **document.**

3 **MR. SALTZMAN: So we would request**

4 **those e-mails from Midland that might be**

5 **changes to procedures pursuant to**

6 **Midland's requests.**

7 **MR. FRANCOEUR: We will take it**

8 **under advisement.**

9 (Whereupon, Request No. 10, E-mails

10 from Midland Funding, LLC indicating

11 changes to procedures, was made.)

12 **MR. SCHWARTZ: I'm sorry, is there**

13 **a question?**

14 **MR. SALTZMAN: No.**

15 **MR. FRANK: We're going to take a**

16 **short break and confer with Alan.**

17 **MR. SALTZMAN: I think we're pretty**

18 **much done.**

19 (Whereupon, a short break was

20 taken.)

21 **MR. FRANK: We reserve the right to**

22 **call the witness back to answer questions**

23 **about the fee structure; and otherwise, we**

24 **have no further questions.**

25 **MR. SALTZMAN: No further**

Page 189

1 M. SELIP  
 2 questions.  
 3 **MR. SCHWARTZ:** No questions.  
 4 **MR. FRANCOEUR:** Did you want to  
 5 articulate what your question is about the  
 6 fee structure?  
 7 **MR. FRANK:** We were -- we've been  
 8 beating this to death. You want to read  
 9 the back the questions that he didn't  
 10 answer?  
 11 **MR. FRANCOEUR:** No. Is there a  
 12 specific question that you want to ask?  
 13 **MR. FRANK:** Yes. We wanted to know  
 14 what the compensation structure is and  
 15 what the incentivization structure is for  
 16 Cohen & Slamowitz's prosecution of  
 17 Midland's actions.  
 18 **MR. FRANCOEUR:** Why don't we take a  
 19 moment. Let us have a moment and just  
 20 revisit issue.  
 21 **MR. SCHWARTZ:** I don't know what  
 22 the answer is. Well, come out here and  
 23 come out and talk.  
 24 **THE WITNESS:** Give me a second. So  
 25 I think I can give you the answers you

Page 190

1 M. SELIP  
 2 want without violating any privileges.  
 3 (Whereupon, a short break was  
 4 taken.)  
 5 **MR. FRANCOEUR:** So this is what we  
 6 want to do.  
 7 We believe we are in a position to  
 8 answer all of your questions, everything  
 9 about the structure, anything you want to  
 10 ask except the actual number.  
 11 If it turns out later on you're  
 12 entitled to the number, we will respond  
 13 and disclose the number.  
 14 **MR. FRANK:** What do you mean by  
 15 "the number"?  
 16 **MR. SCHWARTZ:** The percentage, the  
 17 rate. If you want to know whether it's 80  
 18 percent, whether it's one percent, the  
 19 answer is you're not going to get that  
 20 answer.  
 21 If you want to know how the  
 22 structure is beyond the specific  
 23 percentage, I have no problem with that.  
 24 **MR. FRANK:** Actually, really what  
 25 we're focused on is how Midland's

Page 191

1 M. SELIP  
 2 compensation compares to the other  
 3 creditors because one of our theories is  
 4 that the quality of the actual cases  
 5 differs; and so that's where we're going.  
 6 I don't know if you can do  
 7 comparison that way. If that's within --  
 8 **MR. SCHWARTZ:** If you want to say  
 9 in general what his impression is, he  
 10 knows. I don't know.  
 11 **THE WITNESS:** I have to tell you  
 12 guys, I don't know. So if that's what  
 13 your looking for, I apologize. I can't --  
 14 without going back and checking my  
 15 records, I can't give you that  
 16 information.  
 17 **MR. FRANCOEUR:** But we're going on  
 18 the record, we're not instructing him not  
 19 to answer the question. He's here. You  
 20 guys still have time. You can ask him any  
 21 question you want about the fee structure,  
 22 all but for the actual number, whatever  
 23 the percentage number it is.  
 24 I think that's something that if  
 25 you're entitled to it, we can supplement

Page 192

1 M. SELIP  
 2 in a notice to admit or some other form.  
 3 **MR. FRANK:** Give us a second.  
 4 (Discussion held off the record.)  
 5 **MR. FRANK:** So we're -- both sides  
 6 are going to reserve our rights with  
 7 respect to the disagreements over the  
 8 actual numbers.  
 9 Pending that reservation, we'll --  
 10 CONTINUED EXAMINATION  
 11 **BY MR. SALTZMAN:**  
 12 Q. So we established earlier today  
 13 that part -- that C&S gets paid some percentage  
 14 basis on its -- on what it collects for  
 15 Midland, correct?  
 16 **A. Yes.**  
 17 Q. And C&S gets reimbursed for certain  
 18 expenses, which we went through, correct?  
 19 **A. Yes.**  
 20 Q. And C&S gets paid on an hourly rate  
 21 on I believe it was counterclaims, correct?  
 22 **A. Yes.**  
 23 Q. Is there any other methods by which  
 24 C&S is paid by Midland?  
 25 **A. Earlier this year, they bought us**

Page 193

1 **M. SELIP**  
 2 **breakfast. Besides that, I can't think of any**  
 3 **other way.**  
 4 Q. Are there -- so is that the sum and  
 5 substance of the structure under which C&S is  
 6 paid by Midland? Our whole discussion has been  
 7 we can ask you questions about the structure.  
 8 So now I'm asking you specifically,  
 9 is that the entire structure?  
 10 **A. Yes, it is.**  
 11 Q. Thank you very much for giving us  
 12 permission to ask a question that I asked  
 13 earlier today without any further response.  
 14 And we'll have to just deal with it with the  
 15 judge.  
 16 Now --  
 17 **MR. FRANCOEUR:** What are we going  
 18 to deal with, with the judge? I thought  
 19 he just responded to your question.  
 20 **MR. SALTZMAN:** No, no, no, no. I'm  
 21 talking about the fee numbers.  
 22 **MR. FRANCOEUR:** The numbers.  
 23 **MR. SALTZMAN:** The numbers. As far  
 24 as the structure, I established that this  
 25 morning or early this afternoon. So the

Page 194

1 **M. SELIP**  
 2 structure's been established.  
 3 **MR. FRANCOEUR:** I want the record  
 4 to be clear. If there's a line of  
 5 questioning surrounding the fee structure,  
 6 the witness is here ready to testify.  
 7 The actual number shouldn't affect  
 8 the question.  
 9 **BY MR. SALTZMAN:**  
 10 Q. Do you negotiate the fee structure  
 11 with Midland?  
 12 **A. I did not.**  
 13 Q. Did somebody at C&S?  
 14 **A. I don't know.**  
 15 Q. Do partners negotiate fee  
 16 structures with Midland? Do C&S partners  
 17 negotiate fee structures with Midland?  
 18 **A. I don't know if one of the two**  
 19 **partners of Cohen & Slamowitz did that when the**  
 20 **contract was signed.**  
 21 Q. The contract has been revised a few  
 22 times. I think we established that, correct?  
 23 **A. Yes.**  
 24 Q. At those times when the contract  
 25 was redone, was the fee structure redone?

Page 195

1 **M. SELIP**  
 2 **A. I'm sorry, I don't have information**  
 3 **regarding the change in the structure.**  
 4 Q. Were you involved in the  
 5 negotiation when the agreement, the retainer  
 6 agreement -- it's called the collection  
 7 agreement here in Selip 3 -- were you involved  
 8 in the negotiations between C&S and Midland?  
 9 **A. No.**  
 10 Q. Who was?  
 11 **A. I believe it was David Cohen.**  
 12 Q. Is he still with the firm?  
 13 **A. Mentally or physically? Yes.**  
 14 Q. I Believe you testified that when  
 15 C&S became S&S, some new people came on board;  
 16 is that right?  
 17 **A. Yes.**  
 18 Q. Who are the new people who came on  
 19 board?  
 20 **A. Partners, employees, or both?**  
 21 Q. Partners?  
 22 **A. Partners, Rich Eichenbaum and Harry**  
 23 **Stylianou.**  
 24 Q. And Mr. Eichenbaum and  
 25 Mr. Stylianou, is their experience also in debt

Page 196

1 **M. SELIP**  
 2 collection?  
 3 **A. Part of what they do is debt**  
 4 **collection. They do additional work. They**  
 5 **represent banks in tangential areas of law.**  
 6 Q. What do you mean by "tangential  
 7 areas of law"?  
 8 **A. Harry defends banks and actions**  
 9 **brought against them, not necessarily**  
 10 **representing banks seeking to recover money**  
 11 **from others. It's defense work.**  
 12 Q. It's commercial litigation?  
 13 **A. Well, he does defense work. They**  
 14 **both do a little commercial litigation, but**  
 15 **Harry in particular does defense work.**  
 16 Q. And what about Mr. Stylianou?  
 17 **A. That is Harry.**  
 18 Q. Oh.  
 19 **A. Harry will do defense work. And**  
 20 **Rich will do collection litigation, which can**  
 21 **be either consumer-related or**  
 22 **commercial-related.**  
 23 Q. And, again, you have no  
 24 understanding of what gross collection target  
 25 means in connection with the structure of fees

Page 197

1 M. SELIP  
 2 earned by C&S?  
 3 **A. No. I just know that what we get**  
 4 **now is a percent of everything collected**  
 5 **without regard to --**  
 6 Q. Does the percent change based on  
 7 the dollar amounts collected by C&S? In other  
 8 words, is it a smaller percentage at a lower  
 9 collection amount and it shifts?  
 10 **A. No, no, it doesn't. The only thing**  
 11 **that would affect the commission is that any**  
 12 **costs that are incurred in connection with the**  
 13 **matter are first reimbursed before we determine**  
 14 **the commission rate.**  
 15 Q. So the commission rate that that  
 16 percentage is, is a flat percentage across  
 17 whatever you collect?  
 18 **A. Right. Regardless of the amount**  
 19 **collected, regardless of the litigation status,**  
 20 **it does not change. If he uses us to try to**  
 21 **collect pre-suit because all the monies are**  
 22 **commissionable; whereas if we have to collect**  
 23 **it post-suit, then we have to reimburse the**  
 24 **costs. But we actually collect less money by**  
 25 **litigating.**

Page 198

1 M. SELIP  
 2 Q. So the quicker and cheaper you can  
 3 do collection, the better it is for the firm?  
 4 **A. As in any business, sure, the more**  
 5 **you collect, the sooner you collect, because**  
 6 **the net present value of the dollar is better.**  
 7 MR. SALTZMAN: No further  
 8 questions.  
 9 MR. FRANCOEUR: Anyone else?  
 10 MR. SCHWARTZ: No.  
 11 MR. FRANCOEUR: Thank you.  
 12 MR. SALTZMAN: Thank you, sir.  
 13 (The witness is excused.)  
 14 (Deposition of MITCHELL SELIP  
 15 concluded at 3:51 p.m.)  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Page 199

C E R T I F I C A T E

1  
 2  
 3  
 4 I, SUZANNE J. STOTZ, a Certified  
 5 Court Reporter, and Notary Public in and for  
 6 the State of New York, do hereby certify that  
 7 the foregoing is a true and accurate transcript  
 8 of the stenographic above-captioned matter.  
 9  
 10  
 11  
 12 SUZANNE J. STOTZ, C.C.R.  
 13 My Commission Expires October 17, 2017  
 14  
 15  
 16 DATED: AUGUST 20, 2015  
 17  
 18  
 19 NOTE: THE CERTIFICATE APPENDED TO THIS  
 20 TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION  
 21 OF THE SAME BY ANY MEANS, UNLESS UNDER THE  
 22 DIRECT CONTROL AND/OR DIRECTION OF THE  
 23 CERTIFYING COURT REPORTER.  
 24  
 25

Page 200

E R R A T A S H E E T

1  
 2 I have read my testimony in the foregoing  
 3 transcript and believe it to be true and  
 4 correct to the best of my knowledge and belief  
 5 with the following changes:  
 6 PAGE LINE CHANGE  
 7 \_\_\_\_\_  
 8 \_\_\_\_\_  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_  
 17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 WITNESS SIGNATURE DATE  
 20  
 21 Sworn and subscribed to before me this  
 22 \_\_\_\_ day of \_\_\_\_\_, 2015.  
 23  
 24 Notary Public of the  
 25 State of \_\_\_\_\_.